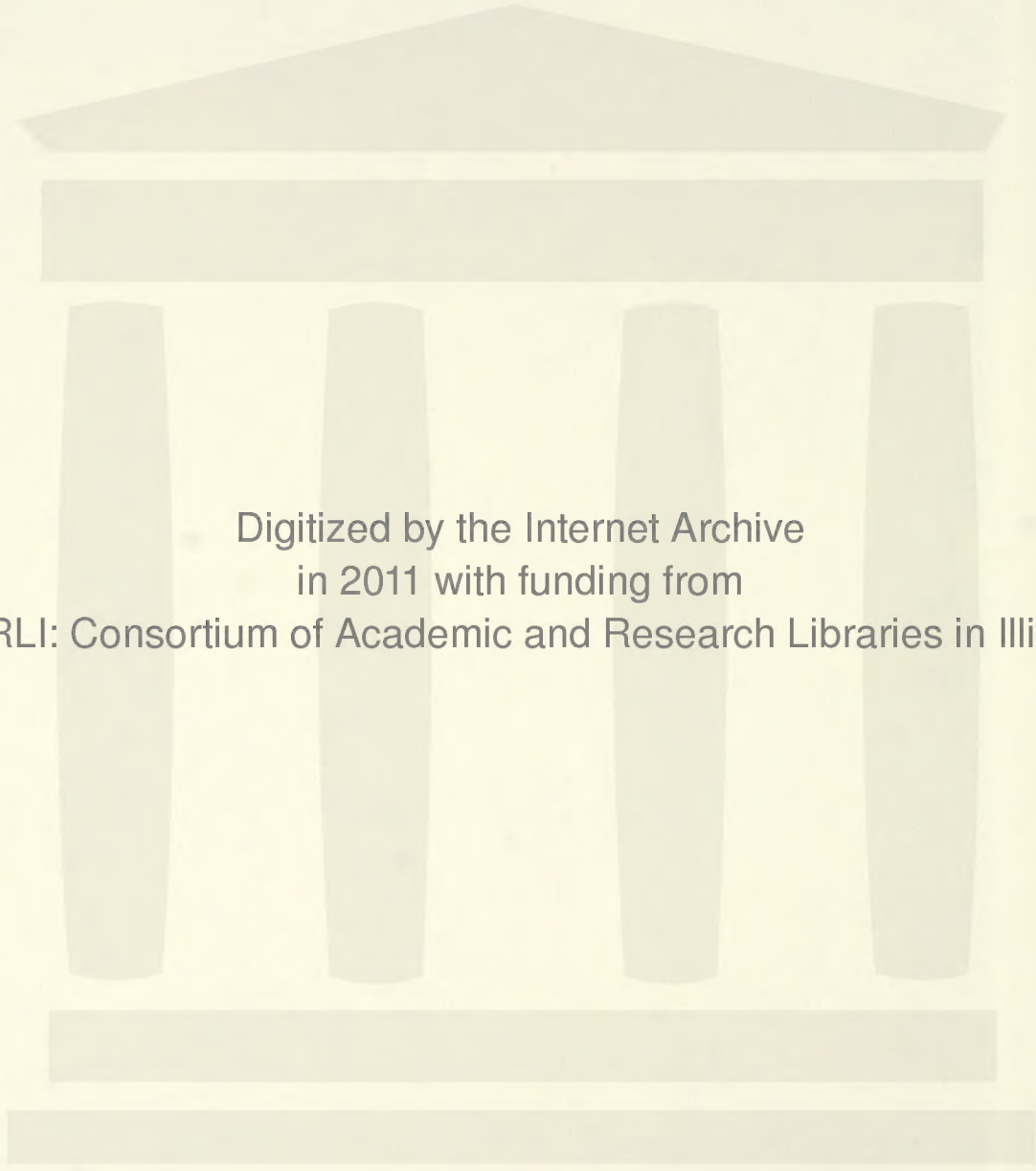

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1999

Illinois Register

Rules of Governmental Agencies

Volume 23, Issue 51 — December 17, 1999

Pages 14,371 – 14,652

Index Department
Administrative Code Div.
111 East Monroe Street
Springfield, IL 62756
(217) 782-7017
http://www.sos.state.il.us

published by
Jesse White
Secretary of State

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December 17, 1999 Volume 23, Issue 51

PROPOSED RULES

ADOPTED RULES

Editor's Note: The Cumulative Index and Sections Affected Index will be printed on a quarterly basis. The printing schedule for the quarterly and annual indexes are as follows:

April	16, 1999 - Issue 16: Through	March	31, 1999	
July	16, 1999 - Issue 29: Through	June	30, 1999	
October	15, 1999 - Issue 42: Through	September	30, 1999	
January	14, 2000 - Issue 3: Through	December	31, 1999	(Annual)

INTRODUCTION

The *Illinois Register* is the official state document for publishing public notice of rulemaking activity initiated by State governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category. The Register also contains a Cumulative Index listing alphabetically by agency the Parts (sets of rules) on which rulemaking activity has occurred in the current Register volume year and a Sections Affected Index listing by Title each Section (including supplementary material) of a Part on which rulemaking activity has occurred in the current volume year. Both indices are action coded and are designed to aid the public in monitoring rules.

Rulemaking activity consists of proposed or adopted new rules; amendments to or repealers of existing rules; and rules promulgated by emergency or peremptory action. Executive Orders and Proclamations issued by the Governor; notices of public information required by State statute; and activities (meeting agendas, Statements of Objection or Recommendation, etc.) of the Joint Committee on Administrative Rules (JCAR), a legislative oversight committee which monitors the rulemaking activities of State agencies; is also published in the Register.

The Register is a weekly update to the *Illinois Administrative Code* (a compilation of the rules adopted by State agencies). The most recent edition of the Code along with the Register comprise the most current accounting of State agencies' rules.

The Illinois Register is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act [5 ILCS 100/1-1 et seq.].

REGISTER PUBLICATION SCHEDULE 1999

Issue #	Copy Due by 4:30 p.m.	Publication Date	Issue #	Copy Due by 4:30 p.m.	Publication Date
Issue 1	December 21, 1998	January 4, 1999 *	Issue 28	June 28	July 9
Issue 2	December 28	January 8	Issue 29	July 6 ***	July 16
Issue 3	January 4, 1999	January 15	Issue 30	July 12	July 23
Issue 4	January 11	January 22	Issue 31	July 19	July 30
Issue 5	January 19	January 29	Issue 32	July 26	August 6
Issue 6	January 25	February 5	Issue 33	August 2	August 13
Issue 7	February 1	February 16	Issue 34	August 9	August 20
Issue 8	February 8	February 19 **	Issue 35	August 16	August 27
Issue 9	February 16 ***	February 26	Issue 36	August 23	September 3
Issue 10	February 22	March 5	Issue 37	August 30	September 10
Issue 11	March 1	March 12	Issue 38	September 7 ***	September 17
Issue 12	March 8	March 19	Issue 39	September 13	September 24
Issue 13	March 15	March 26	Issue 40	September 20	October 1
Issue 14	March 22	April 2	Issue 41	September 27	October 8
Issue 15	March 29	April 9	Issue 42	October 4	October 15
Issue 16	April 5	April 16	Issue 44	October 12 ***	October 22
Issue 17	April 12	April 23	Issue 43	October 18	October 29
Issue 18	April 19	April 30	Issue 44	October 25	November 5
Issue 19	April 26	May 7	Issue 45	November 1	November 12
Issue 20	May 3	May 14	Issue 46	November 8	November 19
Issue 21	May 10	May 21	Issue 47	November 15	November 29 *
Issue 22	May 17	May 28	Issue 48	November 22	December 3
Issue 23	May 24	June 4	Issue 49	November 29	December 10
Issue 24	June 1 ***	June 11	Issue 50	December 6	December 17
Issue 25	June 7	June 18	Issue 51	December 13	December 24
Issue 26	June 14	June 25	Issue 52	December 20	December 31
Issue 27	June 21	July 2	Issue 1	December 27	January 7, 2000

* Monday following a state holiday.
** Tuesday following a state holiday.
*** Since the state holiday is a Monday, the deadline is Noon on Tuesday.

Printed by authority of the State of Illinois
December 1999 – 675 – GA-759

ILLINOIS DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED RULES

1) Heading of the Part: Livestock Management Facility Regulations

2) Code Citation: 8 Ill. Adm. Code 900

3)

Section Numbers	Proposed Action:
900.101	New
900.102	New
900.103	New
900.104	New
900.105	New
900.201	New
900.202	New
900.203	New
900.301	New
900.302	New
900.303	New
900.304	New
900.401	New
900.402	New
900.403	New
900.404	New
900.405	New
900.406	New
900.407	New
900.408	New
900.409	New
900.501	New
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900.608	New
900.609	New
900.610	New
900.701	New
900.702	New

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900.703	New
900.704	New
900.705	New
900.706	New
900.707	New
900.708	New
900.709	New
900.710	New
900.711	New
900.712	New
900.713	New
900.714	New
900.720	New
900.801	New
900.802	New
900.803	New
900.804	New
900.805	New
900.806	New
900.807	New
900.808	New
900.809	New
900.810	New
900.811	New
900.812	New
900.813	New
900.814	New
900.815	New
900.816	New
900.901	New
900.Illustration A	New
900.Illustration B	New

4) Statutory Authority: Authorized by Section 55 of the Livestock Management Facilities Act and implementing the Livestock Management Facilities Act [510 ILCS 77] (see P.A. 91-0110, effective July 13, 1999).

5) A Complete Description of the Subjects and Issues Involved: The Livestock Management Facilities Act [510 ILCS 77] was passed and became effective in 1996. This Act provided regulations for livestock producers and livestock facilities in the following areas: livestock waste lagoon registration and construction, waste management plan development, livestock manager certification, lagoon financial responsibility, and setback distance determination. Emergency rules were developed prior to the promulgation of final rules, which became effective May 20, 1997. Rules for the implementation of lagoon financial responsibility became effective November 12, 1998. All of these rules were promulgated by the Illinois Pollution Control Board (PCB).

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Amendments to the Livestock Management Facilities Act were passed by the General Assembly during the 1997 Fall veto session and the 1999 Spring session. The veto session changes included the addition of secondary containment around livestock waste lagoons, public informational meetings for new or modified lagoon constructions, waste release reporting requirements for lagoon owners, inspections of lagoons, odor control enhancements for lagoons and other types of waste storage structures.

Several additions and changes were made to the Livestock Management Facilities Act as a result of the adoption of Senate Bill 1199 during the 1999 Spring session, including the following additional requirements: filing of notice of intent to construct forms prior to construction; filing of construction plans for all waste storage structures; consideration of eight siting criteria at public informational meetings; siting prohibitions in environmentally sensitive areas such as floodways of 100-year floodplains, karst areas, and shallow aquifer material areas; removal of waste and inspections for facilities removed from service; summation of animal units at commonly owned facilities for the determination of compliance with waste management plan requirements; and a phosphorus-based waste application requirement depending on soil test values. Amendments to existing requirements were also made, including the following: expansion of the public informational meeting requirement to include not only lagoons but other facilities above 1,000 animal units; inclusion of all types of waste storage structures and transportation equipment in the waste release reporting requirements; reducing the animal unit threshold in the waste management plan Section whereby a plan must be submitted and approved by the Illinois Department of Agriculture; and removal of the non-farm residence designation for residential setback determinations.

Additionally, the rule development authority was altered thereby necessitating the proposal of this Part 900 rule. Authority was transferred from the PCB to the Illinois Department of Agriculture for the promulgation of rules for much of the Livestock Management Facilities Act. Therefore, this rulemaking contains the procedures and requirements for complying with the Livestock Management Facilities Act with the exception of the design and construction standards for livestock waste structures. These standards will be promulgated by the Illinois Pollution Control Board in a separate proceeding.

6) Will this proposed rule replace emergency rules currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed rule contain incorporations by reference? Yes

9) Are there any other proposed amendments pending on this Part? Yes
Standards and specifications for the construction of livestock waste

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storage structures are required by the Livestock Management Facilities Act and will be used in conjunction with this proposed rule. The rule for construction standards will be proposed by the Illinois Department of Agriculture and promulgated by the Illinois Pollution Control Board. The Department will propose amendments to the current rule found at 35 Ill. Adm. Code 506. The requirements currently found at 35 Ill. Adm. Code 506, which coincide with this proposed rulemaking, will be repealed.

10) Statement of Statewide Policy Objectives: This proposed rulemaking is required by the Livestock Management Facilities Act and establishes no new requirements for local governments other than those mandated by the underlying legislation, such as the public informational meeting requirement whereby county boards may be required to submit a non-binding recommendation on the construction of new facilities to the Illinois Department of Agriculture.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: The Illinois Department of Agriculture will accept written public comments on this proposed rulemaking for a period of 45 days from the date of publication in the *Illinois Register*. Comments should reference the Livestock Management Facility Regulations and be addressed to:

Livestock Waste Program
Bureau of Environmental Programs
Illinois Department of Agriculture
State Fairgrounds
P.O. Box 19281
Springfield IL 62794-9281

In addition, interested persons may participate in public hearings pertaining to the proposed rulemaking according to the following schedule:

Wednesday, January 12, 2000
10:00 a.m.
Heritage Room - Holmes Student Center
Northern Illinois University
Corner of Normal and Lucinda
DeKalb IL

Tuesday, January 18, 2000
10:00 a.m.
Knights of Columbus Hall
1501 W. Lafayette Ave.
Effingham IL

Thursday, January 20, 2000 (If necessary)
10:00 a.m.

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Illinois Building Theater
Illinois State Fairgrounds
Springfield IL

The purpose of these hearings is to allow the Department to receive testimony from interested persons on the merits and economic impact of the proposed rules. Persons who wish to testify at these hearings should prefile their testimony. All prefiled testimony and exhibits for these hearings must be received by the Department by January 5, 2000. The "mailbox rule" does not apply to these prefilings. The prefiled testimony should reference the Livestock Management Facilities Act Regulations hearings and should be addressed to:

Cynthia Ervin
General Counsel
IL Department of Agriculture
P. O. Box 19281, State Fairgrounds
Springfield IL 62794-9281

Persons who prefile testimony are asked to bring additional copies of their testimony to the hearings for distribution. Additionally, persons who do not prefile testimony will be allowed to testify as time permits, at the discretion of the hearing officer.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Any small business with livestock facilities may be affected by this rulemaking, depending on the size of the livestock operation, plans for initiation or expansion of facilities, or plans for facility closure. It is not expected that small municipalities or not for profit corporations would own or operate livestock facilities.

B) Reporting, bookkeeping or other procedures required for compliance: Basic recordkeeping is required in a waste management plan for livestock waste applications. The filing of documents with the Illinois Department of Agriculture is required for a notice of intent to construct, construction plans, and waste management plans. Reporting to the Illinois Department of Agriculture is required in many areas, including changes to waste management plans, closure of facilities, changes to lagoon financial responsibility, and changes to facility construction plans.

C) Types of professional skills necessary for compliance: No specific professional skills are required of livestock producers for compliance. Producers may need the assistance of a

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professional geologist or engineer when planning, designing, and constructing facilities or an agronomist or consultant when developing a waste management plan.

13) Regulatory Agenda on which this rulemaking was summarized: July 1999

The full text of the Proposed Amendments begins on the next page:

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TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: DEPARTMENT OF AGRICULTURE
SUBCHAPTER t: WASTE MANAGEMENT

PART 900
LIVESTOCK MANAGEMENT FACILITY REGULATIONS

SUBPART A: GENERAL PROVISIONS

Section

SUBPART B: SETBACKS

Section

SUBPART C: NOTICE OF INTENT TO CONSTRUCT

Section

SUBPART D: PUBLIC INFORMATIONAL MEETING

Section

SUBPART E: LIVESTOCK WASTE HANDLING FACILITIES OTHER THAN LAGOONS

Section

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SUBPART F: LAGOON LIVESTOCK WASTE HANDLING FACILITIES

Section

SUBPART G: LAGOON FINANCIAL RESPONSIBILITY

Section

SUBPART H: WASTE MANAGEMENT PLAN

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AUTHORITY: Authorized by Section 55 of the Livestock Management Facilities Act and implementing the Livestock Management Facilities Act [510 ILCS 77] (see P.A. 91-0110, effective July 13, 1999).

SOURCE: Adopted at 24 Ill. Reg. _____, effective _____.

For chemical designations, in this Part, unless the context clearly indicates otherwise, brackets indicate subscript and parentheses indicate superscript.

SUBPART A: GENERAL PROVISIONS

Section 900.101 Applicability

This Subpart applies to 8 Ill. Adm. Code 900. The applicability of Subpart B, Setbacks, is set forth at Section 900.201 of this Part. The applicability of Subpart D, Public Informational Meeting, is set forth at Section 900.401 of this Part. The applicability of Subpart E, Livestock Waste Handling Facilities Other Than Lagoons, is set forth at Section 900.501 of this Part. The applicability of Subpart F, Lagoon Livestock Waste Handling Facilities, is set forth at Section 900.601 of this Part. The applicability of Subpart G, Lagoon

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Financial Responsibility, is set forth at Section 900.701 of this Part. The applicability of Subpart H, Waste Management Plan, is set forth at Section 900.802 of this Part. The applicability of Subpart I, Certified Livestock Manager, is set forth at Section 900.901 of this Part.
DEPARTMENT NOTE: Standards for the design and construction of livestock waste handling facilities, as required in Subparts E and F of this Part, are located at 35 Ill. Adm. Code 506 and are to be used in conjunction with 8 Ill. Adm. Code 900.

Section 900.102 Severability

If any provision of this Part or its application to any person or under any other circumstances is adjudged invalid, such adjudication does not affect the validity of this Part as a whole or of any portion not adjudged invalid.

Section 900.103 Definitions

Except as stated in this Section, or unless a different meaning of a word or term is clear from the context, the definition of words or terms in this Part shall be the same as that applied to the same words or terms in the Environmental Protection Act [415 ILCS 5] or the Livestock Management Facilities Act [510 ILCS 77]. For the purposes of this Part, the terms included in this Section shall have the following meanings:

"Agency" means the Illinois Environmental Protection Agency. [510 ILCS 77/10.5]

"Animal feeding operation" means a feeding operation as defined in the Illinois Environmental Protection Act and the rules promulgated under that act concerning agriculture related pollution. [510 ILCS 77/10.7]

"Animal unit" means a unit of measurement for any animal feeding operation calculated as follows:

Brood cows and slaughter and feeder cattle multiplied by 1.0.

Milking dairy cows multiplied by 1.4.

Young dairy stock multiplied by 0.6.

Swine weighing over 55 pounds multiplied by 0.4.

Swine weighing under 55 pounds multiplied by 0.03.

Sheep, lambs, or goats multiplied by 0.1.

Horses multiplied by 2.0.

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Turkeys multiplied by 0.02.

Laying hens or broilers multiplied by 0.005.

Laying hens or broilers multiplied by 0.01 (if the facility has continuous overflow watering).

Laying hens or broilers multiplied by 0.03 (if the facility has a liquid manure handling system).

Ducks multiplied by 0.02. [510 ILCS 77/10.10]

For species of animals in an animal feeding operation not specifically listed in this definition, the animal unit factor shall be determined by dividing the average mature animal weight by 1,000. The average mature animal weight shall be determined by the Department with guidance from the University of Illinois Cooperative Extension Service.

"Aquifer material" means sandstone that is five feet or more in thickness, or fractured carbonate that is ten feet or more in thickness; or, sand, gravel, or sand and gravel, as defined in this Section, such that there is at least two feet or more present within any five foot section of a soil boring performed in accordance with Subpart B or Subpart C of 35 Ill. Adm. Code 506.

"Certified livestock manager" means a person that has been duly certified by the Department as an operator of a livestock waste handling facility. [510 ILCS 77/10.15]

"Department" means the Illinois Department of Agriculture. [510 ILCS 77/10.20]

"Farm residence" means any residence on a farm owned or occupied by the farm owners, operators, tenants, or seasonal or year-round hired workers. For purposes of this definition, a "farm" is the land, buildings, and machinery used in the commercial production of fam products, and "farm products" are those plants and animals and their products which are produced or raised for commercial purposes and include but are not limited to forages and sod crops, grains and feed crops, dairy and dairy products, poultry and poultry products, livestock, fruits, vegetables, flowers, seeds, grasses, trees, fish, honey and other similar products, or any other plant, animal, or plant or animal product which supplies people with food, feed, fiber, or fur. [510 ILCS 77/10.23]

"Flood fringe" means that portion of the floodplain outside the floodway.

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"Floodplain" means that land adjacent to a body of water with ground surface elevations at or below the 100-year frequency flood elevation.

"Floodway" means the channel and that portion of the floodplain adjacent to a stream or watercourse as designated by the Illinois Department of Natural Resources pursuant to Section 18g of the Rivers, Lakes, and Streams Act [615 ILCS 5/18g], which is needed to store and convey the anticipated future 100-year frequency flood discharge with no more than a 0.1 foot increase in stage due to the loss of flood conveyance or storage, and no more than a 10% increase in velocities. [615 ILCS 5/18g(d)(1)]

"Gravel" or "Sand and gravel" means unconsolidated materials that contain a matrix (particles of two millimeters or less) that is consistent with the definition of "sand" and particles larger than two millimeters in size.

"Karst area" means an area with a land surface containing sinkholes, large springs, disrupted land drainage, and underground drainage systems associated with karstified carbonate bedrock and caves or a land surface without these features but containing a karstified carbonate bedrock unit generally overlain by less than 60 feet of unconsolidated materials. [510 ILCS 77/10.24]

"Karstified carbonate bedrock" means a carbonate bedrock unit (limestone or dolomite) that has a pronounced conduit or secondary porosity due to dissolution of the rock along joints, fractures, or bedding plains. [510 ILCS 77/10.26]

"Lagoon" or "Earthen livestock waste lagoon" means any excavated, diked, or walled structure or combination of structures designed for biological stabilization and storage of livestock wastes. A lagoon does not include structures such as manufactured slurry storage structures or pits under buildings as defined in rules under the Environmental Protection Act concerning agriculture related pollution. [510 ILCS 77/10.25]

"Licensed professional engineer" means a person, corporation or partnership licensed under the laws of the State of Illinois to practice professional engineering. [415 ILCS 5/57.2]

"Licensed professional geologist" means an individual who is licensed under the laws of the State of Illinois to engage in the practice of professional geology in Illinois. [225 ILCS 745/15]

"Livestock management facility" means any animal feeding operation, livestock shelter, or on-farm milking and accompanying milk-handling area. Two or more livestock management facilities under common

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ownership, where the facilities are not separated by a minimum distance of 1/4 mile, and that share a common livestock waste handling facility shall be considered a single livestock management facility. Livestock management facilities at educational institutions, livestock pasture operations, facilities where animals are housed on a temporary basis such as county and state fairs, livestock shows, race tracks, and horse breeding and foaling farms, and market holding facilities are not subject to the Livestock Management Facilities Act or the requirements of this Part. [510 ILCS 77/10.30]

"Livestock shelter" means any covered structure, including but not limited to livestock houses or barns, in which livestock are enclosed at any time.

"Livestock waste" means livestock excreta and associated feed losses, bedding, wash waters, sprinkling waters from livestock cooling, precipitation polluted by falling on or flowing onto an animal feeding operation, and other materials polluted by livestock. [510 ILCS 77/10.35]

"Livestock waste handling facility" means individually or collectively those immovable constructions or devices, except sewers, used for collecting, pumping, treating, or disposing of livestock waste or for the recovery of by-products from the livestock waste. Two or more livestock waste handling facilities under common ownership and where the facilities are not separated by a minimum distance of 1/4 mile shall be considered a single livestock waste handling facility. [510 ILCS 77/10.40]

"Maintained" means, with reference to a livestock waste lagoon, that the livestock waste lagoon is inspected (including but not limited to inspection for burrow holes, trees and woody vegetation, proper freeboard, erosion, settling of berm, berm top integrity, leaks, and seepage) and preventive action is taken as necessary to assure the integrity of the lagoon and its berm and associated appurtenances.

"Modified" means structural changes to a lagoon that increase its volumetric capacity. [510 ILCS 77/10.43]

"New facility" means a livestock management facility or a livestock waste handling facility the construction or expansion of which is commenced on or after May 21, 1996 (the effective date of the Livestock Management Facilities Act). Expanding a facility where the fixed capital cost of the new components constructed within a 2-year period does not exceed 50% of the fixed capital cost of a comparable entirely new facility shall not be deemed a new facility as used in the Livestock Management Facilities Act. [510 ILCS 77/10.45]

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"Non-farm residence" means any residence which is not a farm residence. [510 ILCS 77/10.47]

"Occupied residence" means a house or other type of shelter that is intended or used for human occupancy and has been occupied by humans for more than a total of six months in the last two years at that location. For the purposes of this definition, "intended or used for human occupancy" means running water and sanitation are provided within the residence.

"Owner or operator" means any person who owns, leases, controls, or supervises a livestock management facility or livestock waste-handling facility. [510 ILCS 77/10.50]

"Person" means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, political subdivision, State agency, or any other legal entity or their legal representative, agent, or assigns. [510 ILCS 77/10.55]

"Placed in service" means the placement of livestock waste in a livestock waste lagoon upon the completion of construction or modification in accordance with the requirements of this Part.

"Populated area" means any area where at least 10 inhabited non-farm residences are located or where at least 50 persons frequent a common place of assembly or a non-farm business at least once per week. [510 ILCS 77/10.60] The existence of a populated area shall be determined by identifying the area around the livestock management or livestock waste handling facility delineated by a distance equal to the applicable setback distance and identifying the number of residences or the existence of a non-farm business or the existence of a common place of assembly within that area. For the purpose of setback requirements, common places of assembly or non-farm businesses include but are not limited to churches, hospitals, schools, day care centers, manufacturing companies, land managed for recreational or conservation purposes, museums, camps, parks, retail and wholesale facilities, and shopping centers. A common place of assembly or a non-farm business includes places that operate less than 52 weeks per year, such as schools with seasonal vacation periods and businesses or other places which experience seasonal shutdowns, and parks, camps, and recreational areas which experience seasonal shutdowns or reduced attendance during a portion of the calendar year, provided that such places are frequented by at least 50 persons at least once per week during the portions of the year when seasonal shutdowns or reductions in attendance do not occur.

"Residence" means a house or other structure, including all attachments to the house or structure, which is used as a place of

human habitation.

"Sand" means unconsolidated materials, where 70% or more of the particles are of size 0.06 millimeters to 2.00 millimeters, and which according to the USDA soil texture classification scheme includes soil textures of sand and loamy sand and portions of sandy loam and sandy clay loam.

"Serviced" means, with reference to a livestock waste lagoon, that corrective action is taken as necessary to assure the integrity of the lagoon and its berm and associated appurtenances, including but not limited to removal or repair of burrow holes, trees and woody vegetation, freeboard level, erosion, settling of berm, berm top maintenance, leaks, and seepage.

Section 900.104 Incorporations by Reference

a) The following materials are incorporated by reference:
   1) APHA. American Public Health Association, 1015 Fifteenth Street, NW, Washington, DC 20005, (202) 789-5600, "Standard Methods for the Examination of Water and Wastewater", 19th Edition, 1995.
   2) ASAE. American Society of Agricultural Engineers, 2950 Niles Road, St. Joseph, MI 49085-9659, (616) 429-5585: "Manure Storages", ASAE Standards 1998, ASAE EP393.2, December 1997, pp. 649-652.
      "Design of Anaerobic Lagoons for Animal Waste Management", ASAE Standards 1998, ASAE EP403.2, August 1993, pp. 656-659.
   3) MWPS. MidWest Plan Service, Davidson Hall, Iowa State University, Ames, IA 50011-3080, (515) 294-4337, "Livestock Waste Facilities Handbook" MWPS-18, 3rd Edition, 1993.
   4) NCR. North Central Region - University of Missouri Soil Testing Lab, 23 Mumford Hall, University of Missouri, Columbia, MO 65211, "Recommended Chemical Soil Test Procedures for the North Central Region", North Central Regional Publication No. 221, Missouri Agr. Exp. Stn. Bul. SB 1001, January 1998.
   5) NTIS. National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161, (703) 487-4600, "Methods for the Determination of Inorganic Substances in Environmental Samples", EPA Publication No. EPA-600/R-93/100 (August 1993), Doc. No. PB 94-120821.
   6) USDA-NRCS. United States Department of Agriculture - Natural Resources Conservation Service, 1902 Fox Drive, Champaign, IL 61820, "Waste Treatment Lagoon", Illinois Field Office Technical Guide, Section IV, IL359, p. 5, June 1992.
   7) University of Illinois Extension Service - College of Agriculture, Consumer and Environmental Sciences, Mumford Hall, Urbana, IL 61801, (217) 333-0460, "Illinois Agronomy Handbook 1999-2000", Circular 1360, December 1998.

b) This Section incorporates no later amendments or editions.

Section 900.105 Recordkeeping

a) The Department shall maintain a file for all facilities registering or otherwise filing documents with the Department under this Part.
b) The file shall contain all registration materials, along with all supporting data and justifications, records of Department certification and determinations, groundwater monitoring results (if required), waste management plans (if required), and any other information submitted to the Department by the owner or operator of a facility.
c) Materials in the file required in subsection (a) of this Section shall be available for public inspection and copying, subject to the Freedom of Information Act [5 ILCS 140].

SUBPART B: SETBACKS

Section 900.201 Applicability

a) All new livestock management or livestock waste handling facilities shall comply with the setback distances as established in Section 35 of the Livestock Management Facilities Act [510 ILCS 77/35] and with the provisions of this Subpart.
b) Commencement of operations at a facility reconstructed within two years after partial or total destruction due to natural causes, such as tornado, fire, flood, or earthquake, shall not be considered the location of a new livestock management or waste handling facility for setback purposes. Likewise, a residence partially or totally destroyed due to natural causes, such as tornado, fire, flood, or earthquake, shall retain its original setback for a period of no greater than two years, to allow for reconstruction of the residence.
c) Commencement of operations at a facility that has livestock shelters left intact and that has completed the requirements imposed under Section 13(k) of the Livestock Management Facilities Act [510 ILCS 77/13(k)] and Section 900.508 of this Part and that has been operated as a livestock management facility or livestock waste handling facility for 4 consecutive months at any time within the previous 10 years shall not be considered a new or expanded livestock management or waste handling facility. [510 ILCS 77/13(k)]

Section 900.202 Procedures

a) Grandfather provision: Facilities in existence prior to July 15, 1991. Livestock management facilities and livestock waste handling facilities in existence prior to July 15, 1991 shall comply with setbacks in existence prior to July 15, 1991, as set forth in the Illinois Environmental Protection Act and 35 Ill. Adm. Code 501.402.

[510 ILCS 77/35(a)]

b) Grandfather provision: Facilities in existence on effective date and after July 15, 1991. Livestock management facilities and livestock waste handling facilities in existence on May 21, 1996 (the effective date of the Livestock Management Facilities Act) but after July 15, 1991 shall comply with setbacks in existence prior to May 21, 1996, as set forth in the Illinois Environmental Protection Act and 35 Ill. Adm. Code 501.402. [510 ILCS 77/35(b)]

c) New livestock management or livestock waste handling facilities. Any new facility shall comply with the following setbacks:

1) Residence: For purposes of determining setback distances, minimum distances shall be measured from the nearest corner of the residence to the nearest corner of the earthen waste lagoon, livestock waste handling facility, or livestock management facility, whichever is closer.

2) Common Place of Assembly or Non-Farm Business: For the purposes of determining setback distances between a common place of assembly or non-farm business:

A) When the primary activity at a common place of assembly or non-farm business is an outdoor activity, minimum distances shall be measured from the nearest corner of the earthen waste lagoon, livestock waste handling facility, or livestock management facility to the nearest point on the legal property line of the common place of assembly or non-farm business.

B) When the primary activity at a common place of assembly or non-farm business is not an outdoor activity and is an indoor activity, minimum distances shall be measured from the nearest corner of the earthen waste lagoon, livestock waste handling facility, or livestock management facility to the nearest corner of the structure where the indoor activity takes place.

3) A livestock management facility or livestock waste handling facility serving less than 50 animal units shall be exempt from setback distances as set forth in the Livestock Management Facilities Act but shall be subject to rules promulgated under the Illinois Environmental Protection Act.

4) For a livestock management facility or waste handling facility serving 50 or greater but less than 1,000 animal units, the minimum setback distance shall be 1/4 mile from the nearest occupied residence and 1/2 mile from the nearest populated area.

5) For a livestock management facility or livestock waste handling facility serving 1,000 or greater but less than 7,000 animal units, the setback is as follows:

A) For a populated area, the minimum setback shall be increased 440 feet over the minimum setback of 1/2 mile for each additional 1,000 animal units over 1,000 animal units.

B) For any occupied residence, the minimum setback shall be

increased 220 feet over the minimum setback of 1/4 mile for each additional 1,000 animal units over 1,000 animal units.

6) For a livestock management facility or livestock waste handling facility serving 7,000 or greater animal units, the setback is as follows:

A) For a populated area, the minimum setback shall be 1 mile.

B) For any occupied residence, the minimum setback shall be 1/2 mile. [510 ILCS 77/35(c)]

d) Requirements governing the location of a new livestock management facility and new livestock waste handling facility and conditions for exemptions or compliance with the maximum feasible location as provided in 35 Ill. Adm. Code 501.402 concerning agriculture related pollution shall apply to those facilities identified in subsections (b) and (c) of this Section. With regard to the maximum feasible location requirements, any reference to a setback distance in 35 Ill. Adm. Code 501.402 shall mean the appropriate distance as set forth in this Section. [510 ILCS 77/35(d)]

e) Setback category shall be determined by the maximum design capacity in animal units of the livestock management facility or livestock waste handling facility. [510 ILCS 77/35(e)] For the purposes of this Subpart, the maximum design capacity shall equal the summation of the maximum existing design capacity and the maximum proposed design capacity, both expressed in animal units.

f) Setbacks may be decreased when innovative designs as approved by the Department are incorporated into the facility. [510 ILCS 77/35(f)]

1) An owner or operator shall request a setback decrease in writing prior to construction.

2) An owner or operator shall attach to the request for decrease a certification by a Licensed Professional Engineer that in the professional judgment of the Licensed Professional Engineer the innovative designs incorporated into the facility will provide more odor protection than the original setbacks.

3) The Department shall notify the owner or operator of its determination within 30 days after the receipt of the request for decrease. In approving a reduction in setbacks due to innovative designs, the Department shall specifically find that such use of an innovative design will provide more odor protection than the original setbacks.

4) Where the Department grants such a decrease from the setbacks, the Department must maintain a file which includes all supporting data and justification which it relied upon in making its determination. This file is subject to public inspection.

g) A setback may be decreased when waivers are obtained from owners of residences that are occupied and located in the setback area. [510 ILCS 77/35(g)] A setback also may be decreased when waivers are obtained from owners of non-farm businesses or common places of assembly that are located in the setback area.

1) An owner or operator request for a setback decrease shall be in

writing and submitted to the Department prior to construction.

2) An owner or operator shall attach to the request copies of the written and notarized waivers from all the owner(s) of the residence(s), non-farm business(es), and common place(s) of assembly that are located within the setback area.

3) Within 30 days after receipt of the request and waivers, the Department shall notify the owner or operator in writing of the setback decrease.

4) When such a decrease from the setbacks is requested, the Department must maintain a file which includes all supporting data and justification concerning the setback decrease. This file is subject to public inspection.

Section 900.203 Penalties

a) For violations of the setback distance requirements, the Department may issue one of the following to the owner or operator of the livestock management facility or livestock waste handling facility:

1) If during construction, a cease and desist order which prohibits further construction of the livestock management facility or livestock waste handling facility, prohibits entry of livestock into the livestock management facility, and prohibits use of the livestock waste handling facility; or

2) An operational cease and desist order.

b) A cease and desist order issued by the Department pursuant to subsection (a) of this Section shall be canceled by the Department pursuant to the following:

1) Submission to the Department of a valid waiver as provided for in Section 900.202(g) of this Subpart by the livestock management facility owner or operator or the livestock waste handling facility owner or operator; or

2) Verification by the Department of compliance with the appropriate setback distances as described in Section 35 of the Livestock Management Facilities Act [510 ILCS 77/35].

SUBPART C: NOTICE OF INTENT TO CONSTRUCT

Section 900.301 Purpose

An owner or operator shall file, on a form provided by the Department, a notice of intent to construct, for a livestock management facility or livestock waste handling facility with the Department prior to construction to establish a base date, which shall be valid for one year, for determination of setbacks in compliance with setback distances or, in the case of construction that is not a new facility or a facility of less than 50 animal units, with the maximum feasible location requirements of Section 35 of the Livestock Management Facilities Act. [510 ILCS 77/11(a)]

Section 900.302 Procedures

a) The notice of intent to construct shall contain the following items:

1) A legal description of the land on which the livestock facility will be constructed;

2) The name(s) and address(es) of the owner(s) or operator(s) of the facility;

3) The type and size of the facility;

4) The existing, proposed, and total number of animal units at the facility;

5) The name(s) and address(es) of the owner(s), including local, State, and federal governments, of the property located within the setback areas;

6) The distance to the nearest residence, non-farm business, and common place of assembly as referenced in the definition of "populated area" in Section 900.103 of this Part;

7) A map or sketch showing the proposed facility and setback areas, identifying within the applicable setback areas all the residences, non-farm businesses, and common places of assembly as referenced in the definition of "populated area" in Section 900.103 of this Part; and

8) A statement identifying whether a request for decrease in setbacks, pursuant to Section 900.202(f) or (g), has been sought and whether the request has been granted or denied yet.

b) For livestock management or livestock waste handling facilities that are not subject to the public informational meeting process as outlined in Section 12 of the Livestock Management Facilities Act [510 ILCS 77] and Subpart D of this Part, the following procedures shall be followed:

1) Upon receipt of the notice of intent to construct form, the Department shall review the documents to determine if all information has been submitted or if clarification is needed. The Department shall, within 15 calendar days after receipt of a notice of intent to construct form or receipt of clarification information, notify the owner or operator that construction may begin, only after receipt and approval by the Department of the construction plans pursuant to Subpart E of this Part, or that clarification of the notice of intent to construct information is needed. [510 ILCS 77/11(b)]

2) The owner or operator shall mail by certified mail a complete copy of the notice of intent to construct to the owner(s) of the property located within the setback areas. The owner(s) of the property located within the setback areas are presumed, unless established to the contrary, to be the person(s) shown by the current tax collector's warrant book to be the party in whose name the taxes were last assessed. Copies of the notice may be mailed to property owners when the notice is submitted to the Department or within 15 calendar days after receipt by the

livestock facility owner or operator of the Department's acknowledgement of setback compliance. Complete copies of the notice shall be mailed to property owners prior to the commencement of construction.

c) For livestock management or livestock waste handling facilities that are subject to the public informational meeting process as outlined in Section 12 of the Livestock Management Facilities Act [510 ILCS 77/12] and Subpart D of this Part, the following procedures shall be followed:

1) Upon receipt of the notice of intent to construct form, the Department shall provide notice to the county board of the county in which the facility is to be located and to the public pursuant to Subpart D of this Part.

2) Within 7 calendar days after receipt by the owner or operator of a copy of the Department's notice pursuant to Section 900.402(a)(3) of this Part, the owner or operator of the proposed facility shall mail by certified mail a copy of the notice of intent to construct to the owner(s) of property located within the setback areas. The owner(s) of the property located within the setback distances are presumed, unless established to the contrary, to be the person(s) shown by the current tax collector's warrant book to be the party in whose name the taxes were last assessed.

3) Within 15 calendar days after receipt of a notice of intent to construct form by the Department, the Department shall review the form and notify the owner or operator that all information regarding the form has been submitted or that clarification is needed. Upon receipt of any clarification information, the Department shall, within 15 calendar days after receipt of the information, review the information and notify the owner or operator that all information has been submitted or that additional clarification is needed.

4) Within 15 calendar days after receipt by the Department of information that completes the notice of intent to construct form, the Department shall issue an acknowledgment of setback compliance to the owner or operator if the Department has determined that the owner or operator has complied with the setback and notice of intent to construct requirements of this Part. Construction shall not commence until the provisions set forth in Sections 900.407 and 900.409 of this Part have been met.

d) Where an intent to construct has been filed, the Department must maintain a file which includes all filings and supporting data and justification which it relied upon in making its determination regarding compliance with the setback distances. This file is subject to public inspection.

Section 900.303 Establishment of Base Date and Setback Period

a) The date the notice of intent to construct is filed with the Department establishes the base date for the determination of whether residences, non-farm businesses, or common places of assembly exist for setback purposes.

b) The setback period shall begin on the base date. The setback period shall expire one year after the establishment of the base date unless one or more of the following occurs:

1) A lagoon registration form, for construction on the site, has been approved by the Department pursuant to Subpart F of this Part and construction has commenced;

2) A livestock waste handling facility registration form, for facilities subject to the public informational meeting process as outlined in Section 12 of the Livestock Management Facilities Act [510 ILCS 77/12] and Subpart D of this Part, is filed with the Department, all applicable requirements of the Livestock Management Facilities Act and this Part have been met, and construction of the livestock management facility or livestock waste handling facility has commenced; or

3) A livestock waste handling facility construction plan, for facilities not subject to the public informational meeting process as outlined in Section 12 of the Livestock Management Facilities Act, is filed with the Department, all applicable requirements of the Livestock Management Facilities Act and this Part have been met, and construction of the livestock management facility or livestock waste handling facility has commenced. The setback period shall not expire if a certification of compliance, prepared in accordance with Section 900.506(a) or Section 900.605(b) of this Part, has been received and approved by the Department within 3 years after the base date. The owner or operator may extend the 3 year setback period by an additional 2 years by submitting a written request to the Department prior to the expiration of the 3 year period. Within 15 days after receipt of the written request by the Department, the Department shall notify the owner or operator that the request has been granted.

c) If the Department determines that the owner or operator has complied with the setback requirements and the provisions of this Subpart, residences, non-farm businesses, or common places of assembly established after the original filing of the notice of intent to construct form cannot operate to affect the setback as initially determined subject to the limitation in subsection (b) of this Section.

d) For the purposes of this Subpart, "construction" means the commencement of on-site activities including, but not limited to, foundation preparation, fabrication, erection, or installation.

Section 900.304 Penalties

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Any owner or operator who fails to file a notice of intent to construct form with the Department prior to commencing construction, upon being discovered by the Department, shall be subject to an administrative hearing by the Department. The administrative law judge, upon determination of a failure to file the appropriate form, shall impose a civil administrative penalty in an amount no more than $1,000 and shall enter an administrative order directing that the owner or operator file the appropriate form within 10 business days after receiving notice from the Department. If, after receiving the administrative law judge's order to file, the owner or operator fails to file the appropriate form with the Department, the Department shall impose a civil administrative penalty in an amount no less than $1,000 and no more than $2,500 and shall enter an administrative order prohibiting the operation of the facility until the owner or operator is in compliance with the Livestock Management Facilities Act [510 ILCS 77] and this Subpart. Penalties under this Section not paid within 60 days after notice from the Department shall be submitted to the Attorney General's office or an approved private collection agency. [510 ILCS 77/11(d)]

SUBPART D: PUBLIC INFORMATIONAL MEETING

Section 900.401 Applicability

This Subpart establishes procedures for conducting informational meetings on notices of intent to construct received by the Department after July 13, 1999 for all new livestock management facilities and livestock waste handling facilities serving 1,000 or more animal units that do not propose to utilize a lagoon and all livestock management facilities or livestock waste handling facilities that propose to utilize a lagoon.

Section 900.402 Notice

a) Within 7 days after receiving a form giving notice of intent to construct a new livestock management facility or livestock waste handling facility serving 1,000 or more animal units that does not propose to utilize a lagoon or a livestock management facility or livestock waste handling facility that does propose to utilize a lagoon, the Department shall:
   1) Send a copy of the notice form to the county board of the county in which the facility is to be located;
   2) Publish a public notice in a newspaper of general circulation within the county in which the facility is to be located [510 ILCS 77/12(a)]; and
   3) Send a copy of the notice to be published in the newspaper, pursuant to subsection (a)(2) of this Section, to the owner or operator.

b) The notice in the newspaper shall include:
   1) The date the Department received the notice of intent to construct;

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   2) The type and size of the facility and the number of animal units proposed;
   3) The general location of the facility;
   4) The name of the facility;
   5) The date the notice form was sent to the county board;
   6) A summary of how the county board may petition the Department to conduct an informational meeting concerning the proposed construction; and
   7) Any additional information the Department may consider necessary or proper.

Section 900.403 Request for Informational Meeting

a) Within 30 days after receipt of notice under Section 900.402(a)(1), the county board may request in writing that the Department conduct an informational meeting concerning the proposed construction [510 ILCS 77/12(a)]:
   1) Based on its own discretion; or
   2) Based on a petition, received by the county board within 30 days after receipt of notice under Section 900.402(a)(1), by residents of the county where the proposed facility will be located that the Department conduct an informational meeting.

b) Within 30 days after receipt of the notice under Section 900.402(a)(1), the county board shall request that the Department conduct an informational meeting concerning the proposed construction when the county board has received a petition within 30 days after receipt of the notice under Section 900.402(a)(1) by 75 or more of the county's residents who are registered voters. [510 ILCS 77/12(a)]

Section 900.404 Notice of Informational Meeting

a) After receipt of the request to hold an informational meeting, the Department shall:
   1) Publish a notice of the meeting in a newspaper of general circulation in the county where the facility is to be located;
   2) Publish a notice of the meeting in the State newspaper; and
   3) Send a copy of the notice to the county board in sufficient time for the county board to post the notice as required by subsection (c) of this Section.

b) The notice of an informational meeting must contain the following information:
   1) Date, time and place of the meeting;
   2) The type and size of the facility and the number of animal units proposed;
   3) The general location of the facility;
   4) The name of the facility;
   5) A summary of how the informational meeting will be conducted and how persons may comment; and

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6) Any additional information the Department may consider necessary or proper.

c) Upon receipt of the notice of the informational meeting under subsection (a)(3) of this Section, the county board shall post the notice on the public informational board at the county courthouse at least 10 days before the meeting. [510 ILCS 77/12(a)]

Section 900.405 Conduct of Informational Meeting

a) Within 15 days after receipt of a county board's request to conduct an informational meeting, the Department shall appoint a hearing officer, in accordance with 8 Ill. Adm. Code 1.22(a), to conduct the informational meeting, and conduct an informational meeting on the proposed construction in the county where the proposed facility is to be located.

b) The hearing officer shall have the duty to conduct a fair informational meeting, take all necessary action to avoid delay, maintain order, and ensure the development of a clear, complete, and concise record. The hearing officer shall have all powers necessary to these ends, including but not limited to the authority to:
   1) Require and establish a schedule for, and notice and distribution of, any pre-meeting submission of testimony and written exhibits;
   2) Require all participants to state their position with respect to the proposed facility;
   3) Administer oaths and affirmations;
   4) Regulate the course of the meeting, including but not limited to controlling the order of proceedings;
   5) Establish reasonable limits on the duration of the testimony and questioning of any witness and limit repetitious or cumulative testimony and questioning;
   6) Rule upon objections and evidentiary questions;
   7) Rule upon any motions;
   8) Initiate, schedule, and conduct a pre-meeting conference; and
   9) Rule on discovery requests.

c) The hearing officer shall state at the beginning of the informational meeting the manner in which the meeting will be conducted, time limits for testifying, and any other procedures for conducting the meeting. Procedures and time limits may vary according to the number of people wishing to testify, the time the meeting starts, weather conditions, and other situations affecting the length of the meeting.

d) At the meeting, the Department shall afford members of the public an opportunity to ask questions and present oral or written comments concerning the proposed construction. [510 ILCS 77/12(a)] All persons shall be sworn in and testimony shall be in narrative form. All persons testifying shall be subject to questioning by any person.

e) Any person requesting time to make an oral comment at the informational meeting must register prior to the beginning of the meeting. Persons shall be called to testify in the order of registration, unless the hearing officer determines otherwise.

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f) A person may represent an association, organization, or other group. The hearing officer may request such person to present proof indicating that he or she is authorized to represent the association, organization, or group. Acceptable proof means a letter, affidavit, or verbal verification from an officer of the association, organization, or group being represented.

g) All written comments shall be:
   1) Addressed to the Director or Hearing Officer, Illinois Department of Agriculture, State Fairgrounds, P.O. Box 19281, Springfield, IL 62794-9281, unless otherwise instructed by the hearing officer;
   2) Legible with lines double spaced, except that long quotations may be single spaced, on white paper measuring 8 1/2 inches by 11 inches; and
   3) Signed by the party filing the comment or by an officer, agent, or attorney thereof and shall contain the address of the party filing the comment, or, if the filing party is an attorney, the name and address of such attorney.

h) The owner or operator who submitted the notice of intent to construct to the Department shall appear at the informational meeting. [510 ILCS 77/12(a)]

i) At the informational meeting, the Department shall receive evidence by testimony or otherwise on the following subjects:
   1) Whether registration and livestock waste management plan certification requirements, if required, are met by the notice of intent to construct;
   2) Whether the design, location, or proposed operation will protect the environment by being consistent with the Livestock Management Facilities Act [510 ILCS 77];
   3) Whether the location of the facility minimizes any incompatibility with the surrounding area's character by being located in any area zoned for agriculture where the county has zoning or, where the county is not zoned, the setback requirements established by the Livestock Management Facilities Act are complied with;
   4) Whether the facility is located within a 100-year floodplain or an otherwise environmentally sensitive area (defined as an area of karst area or with aquifer material within 5 feet of the bottom of the livestock waste handling facility) and whether construction standards set forth in the notice of intent to construct are consistent with the goal of protecting the safety of the area;
   5) Whether the owner or operator has submitted plans for operation that minimize the likelihood of any environmental damage to the surrounding area from spills, runoff, and leaching;
   6) Whether odor control plans are reasonable and incorporate reasonable or innovative odor reduction technologies given the

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current state of such technologies;

7) Whether traffic patterns minimize the effect on existing traffic flows; and

8) Whether construction or modification of a new facility is consistent with existing community growth, tourism, recreation, or economic development or with specific projects involving community growth, tourism, recreation, or economic development that have been identified by government action for development or operation within one year through compliance with applicable zoning and setback requirements for populated areas as established by the Livestock Management Facilities Act. [510 ILCS 77/12(d)]

j) In the absence of a specific provision in this Subpart governing the conduct of the informational meeting, the Department's procedural rules or a particular provision of the Code of Civil Procedure may provide guidance to the Department or hearing officer.

Section 900.406 County Board Recommendation

At the informational meeting or within 30 days following the meeting, the county board shall submit to the Department an advisory, non-binding recommendation about the proposed new facility's construction in accordance with the applicable requirements of the Act. The advisory, non-binding recomendation shall contain, at a minimum, the following:

a) A statement of whether the proposed facility achieves or fails to achieve each of the 8 siting criteria described in subsection (d) of Section 12 of the Livestock Management Facilities Act [510 ILCS 77/12(d)] and Section 900.405(i) of this Subpart; and

b) A statement of the information and criteria used by the county board in determining that the proposed facility met or failed to meet any of the criteria described in subsection (d) of Section 12 of the Livestock Management Facilities Act and Section 900.405(i) of this Subpart. [510 ILCS 77/12(b)]

Section 900.407 Final Determination

a) Within 15 calendar days after the close of the comment period under Section 900.406 of this Subpart, the Department shall determine whether, more likely than not, the provisions of the Livestock Management Facilities Act [510 ILCS 77] have been met. [510 ILCS 77/12.1(a)]

b) If the Department finds, after an informational meeting, that additional information or that specific changes are needed in order to assist the Department in making the determination, the Department may request such information or changes from the owner or operator of the new livestock waste handling facility or livestock management facility. [510 ILCS 77/12.1(a-5)] No later than 10 working days after the receipt of the clarification information, the Department

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shall notify the applicant and the county board in writing by certified mail whether, more likely than not, the provisions of the Livestock Management Facilities Act have been met and whether construction may proceed or is prohibited.

c) If the Department determines after an informational meeting that, more likely than not, the provisions of the Livestock Management Facilities Act have been met, the Department shall send written notice by certified mail to the applicant and the county board indicating that construction may proceed. [510 ILCS 77/12.1(a)]

d) If the Department determines after an informational meeting that, more likely than not, the provisions of the Livestock Management Facilities Act have not been met, the Department shall send written notice by certified mail to the applicant and the county board that construction is prohibited. [510 ILCS 77/12.1(a)]

e) If no informational meeting is held, the Department shall, within 15 calender days following the end of the period for the county board to request an informational meeting, notify in writing by certified mail the owner or operator that construction may begin, is prohibited or that clarification is needed. [510 ILCS 77/12.1(b)] No later than 10 working days after the receipt of the clarification information, the Department shall notify the applicant and the county board in writing by certified mail whether the provisions of the Livestock Management Facilities Act have been met and whether construction may proceed or is prohibited.

Section 900.408 Amendment to Plans

a) If the owner or operator of a proposed livestock management facility or livestock waste handling facility amends the facility plans during the Department's review by increasing the maximum design capacity of the livestock management facility or livestock waste handling facility, changing the type of livestock waste handling facility, or altering the facility location which results in a change in the status of residences and common places of assembly in setback areas, the Department shall notify the county board, which may exercise its option of a public informational meeting pursuant to Section 12 of the Livestock Management Facilities Act [510 ILCS 77/12] and Section 900.403 of this Subpart. [510 ILCS 77/12.1(c)] If a request for an informational meeting is made, the Department shall follow the procedures as outlined in this Subpart. If no request for an informational meeting is made, the Department shall make its final determination in accordance with Section 900.407 of this Subpart.

b) If the owner or operator of a proposed new livestock management or new livestock waste handling facility amends the facility plans during the Department's review process by increasing the animal unit capacity of the facility such that the required setback distances will be increased, the owner or operator shall submit a revised notice of intent to construct and comply with applicable provisions of the

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Livestock Management Facilities Act and the requirements of this Subpart. [510 ILCS 77/12.1(d)]

Section 900.409 Construction

a) When the county board requests an informational meeting, construction shall not begin until after the informational meeting has been held, the Department has reviewed the county board's recommendation and replied to the recommendation indicating if the proposed new livestock management facility or the new livestock waste handling facility is or will be in compliance with the requirements of the Livestock Management Facilities Act [510 ILCS 77], and the owner, operator, or certified manager and operator has received the Department's notice that the setbacks and all applicable requirements of the Livestock Management Facilities Act have been met. [510 ILCS 77/12(c)]

b) If no informational meeting is requested, construction shall not begin until after the Department has reviewed the notice of intent to construct and determined that the requirements of the Livestock Management Facilities Act have been met.

SUBPART E: LIVESTOCK WASTE HANDLING FACILITIES OTHER THAN LAGOONS

Section 900.501 Applicability

The applicability of this Subpart shall be as follows:

a) Section 900.502 of this Subpart applies to new livestock management facilities and livestock waste handling facilities, other than livestock waste lagoons, constructed after July 13, 1999;

b) Section 900.503 of this Subpart applies to livestock waste handling facilities, other than livestock waste lagoons, constructed after July 13, 1999 that are not subject to the public informational meeting process;

c) Section 900.504 of this Subpart applies to livestock waste handling facilities, other than livestock waste lagoons, constructed after July 13, 1999 that are subject to the public informational meeting process;

d) Sections 900.505, 900.506, and 900.507 of this Subpart apply to livestock waste handling facilities, other than livestock waste lagoons, constructed after July 13, 1999;

e) Section 900.508 of this Subpart applies to any livestock management facility not utilizing a livestock waste lagoon;

f) Section 900.509 of this Subpart applies to new livestock management facilities not utilizing a livestock waste lagoon constructed after May 21, 1999; and

g) Section 900.510 of this Subpart applies to any livestock waste handling facility not utilizing a livestock waste lagoon.

Section 900.502 Siting Restrictions and Additional Construction Requirements

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New livestock management facilities and livestock waste handling facilities constructed after July 13, 1999 shall be subject to the additional construction requirements and siting prohibitions provided in this Section. [510 ILCS 77/13(b)]

a) No new non-lagoon livestock management facility or livestock waste handling facility may be constructed within the floodway of a 100-year floodplain. A new livestock management facility or livestock waste handling facility may be constructed within the portion of a 100-year floodplain that is within the flood fringe and outside the floodway provided that the facility is designed and constructed to be protected from flooding and meets the requirements set forth in the Rivers, Lakes, and Streams Act [615 ILCS 5], Section 5-40001 of the Counties Code [55 ILCS 5/5-40001], and Executive Order Number 4 (1979). The delineation of floodplains, floodways, and flood fringes shall be in compliance with the national flood insurance program. Protection from flooding shall be consistent with the National Flood Insurance Program and shall be designed so that stored livestock waste is not readily removed. [510 ILCS 77/13(b)(1)] Construction standards and specifications shall be utilized as set forth in Subpart C of 35 Ill. Adm. Code 506.

b) A new non-lagoon livestock waste handling facility constructed in a karst area shall be designed to prevent seepage of the stored material into groundwater in accordance with ASAE EP393.2 or future updates. Owners or operators of proposed facilities should consult with the local soil and water conservation district, the University of Illinois Cooperative Extension Service, or other local, county, or State resources relative to determining the possible presence or absence of such areas. Notwithstanding the other provisions of this subsection (b), after July 13, 1999, no non-lagoon livestock waste handling facility may be constructed within 400 feet of any natural depression in a karst area formed as a result of subsurface removal of soil or rock materials that has caused the formation of a collapse feature that exhibits internal drainage. For the purposes of this subsection (b), the existence of such a natural depression in a karst area shall be indicated by the uppermost closed depression contour lines on a USGS 7 1/2 minute quadrangle topographic map or as determined by Department field investigation in a karst area. [510 ILCS 77/13(b)(2)] Construction standards and specifications shall be utilized as set forth in Subpart C of 35 Ill. Adm. Code 506.

c) A new non-lagoon livestock waste handling facility constructed in an area where aquifer material is present within 5 feet of the bottom of the facility shall be designed to ensure the structural integrity of the containment structure and to prevent seepage of the stored material to groundwater. Footings and underlying structure support shall be incorporated into the design standards of the storage structure in accordance with the requirements of Section 4.1 of the American Society of Agricultural Engineers (ASAE) EP393.2 or future updates. [510 ILCS 77/13(b)(3)] Construction standards and

specifications shall be utilized as set forth in Subpart C of 35 Ill. Adm. Code 506.

Section 900.503 Livestock Waste Handling Facilities Not Subject to the Public Informational Meeting Process

For a livestock waste handling facility, other than a livestock waste lagoon, that is not subject to the public informational meeting process as outlined in Section 12 of the Livestock Management Facilities Act [510 ILCS 77] and Subpart D of this Part, the following procedures shall be followed:

a) For a new livestock waste handling facility, a site investigation shall be conducted in accordance with Subpart C of 35 Ill. Adm. Code 506 to determine whether aquifer material is considered present (or not present) within 5 feet of the planned bottom of the livestock waste handling facility, the proposed facility is located in the floodway or flood fringe of a 100-year floodplain, and the proposed facility is located in a karst area or within 400 feet of a natural depression in a karst area. A livestock waste handling facility owner may rely on guidance from the local soil and water conservation district, the Natural Resources Conservation Service of the United States Department of Agriculture, or the University of Illinois Cooperative Extension Service for soil type and associated information. [510 ILCS 77/13(c)]

b) A construction plan of the waste handling structure with design specifications of the structure noted as prepared by or for the owner or operator shall be filed with the Department at least 10 calendar days prior to the anticipated dates of construction. [510 ILCS 77/11(b)] Construction standards and specifications shall be utilized as set forth in Subpart C of 35 Ill. Adm. Code 506.

c) For a new livestock waste handling facility, the construction plan required pursuant to subsection (b) of this Section shall include a certification statement on a form provided by the Department. The statement, accompanied by supporting justification, data, and the results of the site investigation, shall certify that the site investigation meets all the applicable requirements of subsection (a) of this Section and Subpart C of 35 Ill. Adm. Code 506, and whether aquifer material is considered present (or not present) within 5 feet of the planned bottom of the livestock waste handling facility, the proposed facility is located in the floodway or flood fringe of a 100-year floodplain, and the proposed facility is located in a karst area or within 400 feet of a natural depression in a karst area. The form shall be completed and signed by a Licensed Professional Engineer or Licensed Professional Geologist or by a representative of the Natural Resources Conservation Service of the United States Department of Agriculture.

d) Upon receipt of the construction plan and site investigation information, the Department shall review the documents to determine if all information has been submitted or if clarification is needed. The

Department shall, within 15 calendar days after receipt of the construction plan, notify the owner or operator that construction may begin, if all applicable requirements of the Livestock Management Facilities Act [510 ILCS 77] and this Part have been met, or that clarification is needed. [510 ILCS 77/11(b)] No later than 15 calendar days after receipt of the clarification information, the Department shall notify the owner or operator that construction may begin, if all applicable requirements of the Livestock Management Facilities Act and this Part have been met, or that additional clarification is needed.

Section 900.504 Livestock Waste Handling Facilities Subject to the Public Informational Meeting Process

For a livestock waste handling facility, other than a livestock waste lagoon, that is subject to the public informational meeting process as outlined in Section 12 of the Livestock Management Facilities Act [510 ILCS 77] and Subpart D of this Part, the following procedures shall be followed:

a) The owner or operator shall file a completed registration with the Department, on a form provided by the Department, at least 37 calendar days prior to the anticipated dates of construction.

b) The registration shall include the following:

1) Name and address of the owner and operator of the livestock waste handling facility;

2) Location of the livestock waste handling facility;

3) General description of the livestock waste handling facility;

4) Type and number of animal units of livestock served by the livestock waste handling facility;

5) Specific location information noted on a facility site map or livestock waste handling facility plot plan:

A) The location and distance to the nearest private or public potable well;

B) The location and distance to the nearest stream;

C) The location and distance to the nearest abandoned or plugged well, drainage well, or injection well located within 1,000 feet of the proposed facility; and

D) The location of any subsurface drainage lines within 100 feet of the livestock waste handling facility;

6) Anticipated beginning and ending dates of construction [510 ILCS 77/11(c)];

7) Results of a site investigation conducted in accordance with Subpart C of 35 Ill. Adm. Code 506 to determine whether aquifer material is considered present (or not present) within 5 feet of the planned bottom of the livestock waste handling facility, the proposed facility is located in the floodway or flood fringe of a 100-year floodplain, and the proposed facility is located in a karst area or within 400 feet of a natural depression in a karst area. A livestock waste handling facility owner may rely on

guidance from the local soil and water conservation district, the Natural Resources Conservation Service of the United States Department of Agriculture, or the University of Illinois Cooperative Extension Service for soil type and associated information. [510 ILCS 77/13(c)];

8) A certification statement on a form provided by the Department. The statement, accompanied by supporting justification and data, shall certify that the site investigation meets all the applicable requirements of subsection (b)(7) of this Section and Subpart C of 35 Ill. Adm. Code 506, and whether aquifer material is considered present (or not present) within 5 feet of the planned bottom of the livestock waste handling facility, the proposed facility is located in the floodway or flood fringe of a 100-year floodplain, and the proposed facility is located in a karst area or within 400 feet of a natural depression in a karst area. The form shall be completed and signed by a Licensed Professional Engineer or Licensed Professional Geologist or by a representative of the Natural Resources Conservation Service of the United States Department of Agriculture; and

9) Construction plan of the waste handling structure with design specifications of the structure noted as prepared by or for the owner or operator in accordance with the requirements contained in Subpart C of 35 Ill. Adm. Code 506, including a livestock waste handling facility plot plan with dimensions and elevations. [510 ILCS 77/11(c)]

c) The Department shall, within 15 calendar days after receipt of the registration form, notify the person submitting the form that the registration is complete or that clarification information is needed. [510 ILCS 77/11(c)] No later than 15 calendar days after receipt of the clarification information, the Department shall notify the owner or operator that registration is complete or that additional clarification is needed.

d) When the county board requests an informational meeting, construction shall not begin until after the informational meeting has been held, the Department has reviewed the county board's recommendation and replied to the recommendation indicating if the proposed new livestock management facility or the new livestock waste handling facility is or will be in compliance with the requirements of the Act, and the owner, operator, or certified manager and operator has received the Department's notice that the setbacks and all applicable requirements of the Act have been met. [510 ILCS 77/12(c)] If no informational meeting is held, the Department shall, within 15 calendar days following the end of the period for the county board to request an informational meeting, notify the owner or operator that construction may begin or that clarification is needed. [510 ILCS 77/12.1(b)]

Section 900.505 Inspections

a) The Department shall inspect the construction site prior to construction, during construction, and within 10 business days following receipt of the certification of compliance, pursuant to Section 900.506 of this Subpart, to determine compliance with the construction standards and this Subpart. [510 ILCS 77/13(g)]

b) The person making any inspection shall comply with reasonable animal health protection procedures as requested by the owner, operator, or certified livestock manager.

c) The Department shall require modification when necessary to bring the construction into compliance with the standards as set forth in this Subpart and Subpart C of 35 Ill. Adm. Code 506. [510 ILCS 77/13(h)]

d) The person making the inspection shall discuss with the owner, operator, or certified livestock manager an evaluation of the livestock waste handling facility construction and shall provide on-site written recommendations to the owner, operator, or certified livestock manager of what modifications are necessary or inform the owner, operator, or certified livestock manager that the facility meets the standards set forth in this Subpart and Subpart C of 35 Ill. Adm. Code 506. On the day of the inspection, the person making the inspection shall give the owner, operator, or certified livestock manager a written report of findings based on the inspection together with an explanation of remedial measures necessary to enable the livestock waste handling facility to meet the standards set forth in this Subpart and Subpart C of 35 Ill. Adm. Code 506. The Department shall, within 5 business days after the date of inspection, send an official written notice to the owner or operator of the livestock waste handling facility by certified mail, return receipt requested, indicating that the facility meets the standards set forth in this Subpart and Subpart C of 35 Ill. Adm. Code 506 or identifying the remedial measures necessary to enable the livestock waste handling facility to meet the standards set forth in this Subpart and Subpart C of 35 Ill. Adm. Code 506. The owner or operator shall, within 10 business days after receipt of an official written notice of deficiencies, contact the Department to develop the principles of an agreement of compliance. The owner or operator and the Department shall enter into an agreement of compliance setting forth the specific changes to be made to bring the construction into compliance with the standards required under this Subpart and Subpart C of 35 Ill. Adm. Code 506. If an agreement of compliance cannot be achieved, the Department shall issue a compliance order to the owner or operator outlining the specific changes to be made to bring the construction into compliance with the standards required under this Subpart and Subpart C of 35 Ill. Adm. Code 506. The owner or operator can request an administrative hearing to contest the provisions of the Department's compliance order. [510 ILCS 77/13(h)]

e) If any owner or operator operates in violation of an agreement of compliance, the Department shall seek an injunction in circuit court to prohibit the operation of the facility until construction and

certification of the livestock waste handling facility are in compliance with the provisions of this Subpart and Subpart C of 35 Ill. Adm. Code 506. [510 ILCS 77/13(j)]

Section 900.506 Certification of Compliance

a) The owner or operator of a livestock management facility or livestock waste handling facility constructed pursuant to the requirements of this Subpart shall send, by certified mail or in person, to the Department a certification of compliance form provided by the Department together with copies of verification documents upon completion of construction. In the case of structures constructed with the design standards used by the Natural Resources Conservation Service of the United States Department of Agriculture, copies of the design standards and a statement of verification signed by a representative of the United States Department of Agriculture shall accompany the owner's or operator's certification of compliance. The certification shall state that the structure meets or exceeds the construction requirements as set forth in Subpart C of 35 Ill. Adm. Code 506. [510 ILCS 77/13(f)]

b) A $250 filing fee shall accompany the certification of compliance statement. [510 ILCS 77/13(f)]

Section 900.507 Failure to Register or File Construction Plans

Any owner or operator who fails to file a registration form or construction plans and site investigation information with the Department prior to commencing construction, upon being discovered by the Department, shall be subject to an administrative hearing by the Department. The administrative law judge, upon determination of a failure to file the appropriate form, shall impose a civil administrative penalty in an amount no more than $1,000 and shall enter an administrative order directing that the owner or operator file the appropriate form within 10 business days after receiving notice from the Department. If, after receiving the administrative law judge's order to file, the owner or operator fails to file the appropriate form with the Department, the Department shall impose a civil administrative penalty in an amount no less than $1,000 and no more than $2,500 and shall enter an administrative order prohibiting the operation of the facility until the owner or operator is in compliance with the Livestock Management Facilities Act [510 ILCS 77] and this Subpart. Penalties under this Section not paid within 60 days after notice from the Department shall be submitted to the Attorney General's office or an approved private collection agency. [510 ILCS 77/11(d)]

Section 900.508 Removal from Service

a) When any livestock management facility not using a livestock waste lagoon is removed from service, the accumulated livestock waste remaining within the facility shall be removed and applied to land at

rates consistent with a waste management plan for the facility. Removal of the waste shall occur within 12 months after the date livestock production at the facility ceases. In addition, the owner or operator shall make provisions to prevent the accumulation of precipitation within the livestock waste handling facility. [510 ILCS 77/13(k)]

b) Upon completion of the removal of manure, the owner or operator of the facility shall notify the Department that the facility is being removed from service and the remaining manure has been removed. The Department shall conduct an inspection of the livestock waste handling facility and inform the owner or operator in writing that the requirements imposed under this Section have been met or that additional actions are necessary. [510 ILCS 77/13(k)]

Section 900.509 Return to Service

A new facility constructed after May 21, 1996 that has been removed from service for a period of 2 or more years shall not be placed back into service prior to an inspection of the livestock waste handling facility and receipt of written approval by the Department. [510 ILCS 77/13(k)]

Section 900.510 Odor Control

a) Operators of livestock waste handling facilities shall practice odor control methods during the course of manure removal and field application. Odor control methods shall be those methods identified in the rules adopted pursuant to the Illinois Environmental Protection Act concerning agriculture related pollution as set forth in 35 Ill. Adm. Code 501.405(b). [510 ILCS 77/25(a)]

b) Above-ground livestock waste holding structures must be operated using odor control management guidelines based on scientific peer review accepted by the Department and determined to be economically feasible to the specific operation. [510 ILCS 77/25(c)]

c) Upon the occurrence of a violation of this Section, the following procedures shall be followed:

1) For a first violation of this Section by the owner or operator of a livestock management facility or livestock waste handling facility, the Department shall send the owner or operator a written notice of the violation by certified mail, return receipt requested.

2) If after an administrative hearing the Department finds that the owner or operator of a livestock management facility or livestock waste handling facility has committed a second violation of this Section, the Department shall impose on the owner or operator a civil administrative penalty in an amount not exceeding $1,000. The Attorney General may bring an action in the circuit court to enforce the collection of a penalty imposed under this Section.

3) If after an administrative hearing the Department finds that the

owner or operator of a livestock management facility or livestock waste handling facility has committed a third violation of this Section, the Department shall enter an administrative order directing that the owner or operator cease operation of the facility until the violation is corrected.

4) If a livestock management facility or livestock waste handling facility has not committed a violation of this Section within the 5 years immediately preceding a violation, the violation shall be construed and treated as a first violation. [510 ILCS 77/25(d)]

SUBPART F: LAGOON LIVESTOCK WASTE HANDLING FACILITIES

Section 900.601 Applicability

a) The applicability of this Subpart shall be as follows:
   1) Sections 900.602 through 900.606 of this Subpart apply to any new or modified lagoon, the design of which has not been approved by the Department prior to the effective date of this Part;
   2) Section 900.607 of this Subpart applies to any livestock waste lagoon that services 1,000 or more animal units and is required to be registered under the Livestock Management Facilities Act;
   3) Section 900.608 of this Subpart applies to any livestock waste lagoon;
   4) Section 900.609 of this Subpart applies to any livestock waste lagoon constructed after June 1, 1998; and
   5) Section 900.610 of this Subpart applies to any livestock waste lagoon required to be registered under the Livestock Management Facilities Act.

b) A lagoon registered and certified pursuant to the emergency rules adopted by the Illinois Pollution Control Board in R97-14 at 20 Ill. Reg. 14903, effective October 31, 1996, the emergency rules adopted in R97-14 at 21 Ill. Reg. 4313, effective March 31, 1997, and the rules adopted in R97-15(A) at 21 Ill. Reg. 6851, effective May 20, 1997, shall be considered as registered and certified pursuant to this Subpart.

c) For the purposes of this Subpart the number of animal units at a livestock management facility is the maximum design capacity of the livestock management facility.

Section 900.602 Lagoon Siting Restrictions and Additional Construction Requirements

a) New earthen livestock waste lagoons constructed after July 13, 1999 shall be subject to additional construction requirements and siting prohibitions as provided in this Section.
   1) No new earthen livestock waste lagoon may be constructed within the floodway of a 100-year floodplain. A new earthen livestock waste lagoon may be constructed within the portion of a 100-year

floodplain that is within the flood fringe and outside the floodway provided that the facility is designed and constructed so that livestock waste is not readily removed during flooding and meets the requirements set forth in the Rivers, Lakes, and Streams Act [615 ILCS 5], Section 5-40001 of the Counties Code [55 ILCS 5/5-40001], and Executive Order Number 4 (1979). The delineation of floodplains, floodways, and flood fringes shall be in compliance with the National Flood Insurance Program. [510 ILCS 77/15(a-5)(1)] Construction standards and specifications shall be utilized as set forth in Subpart B of 35 Ill. Adm. Code 506.

   2) A new earthen livestock waste lagoon constructed in a karst area shall be designed to prevent seepage of the stored material to groundwater. Owners or operators of proposed facilities shall consult with the local soil and water conservation district, the University of Illinois Cooperative Extension Service, or other local, county, or State resources relative to determining the possible presence or absence of such areas. Notwithstanding the other provisions of this subsection (a), after July 13, 1999, no earthen livestock waste lagoon may be constructed within 400 feet of any natural depression in a karst area formed as a result of subsurface removal of soil or rock materials that has caused the formation of a collapse feature that exhibits internal drainage. For the purposes of this subsection (a), the existence of such natural depression in a karst area shall be indicated by the uppermost closed depression contour lines on a USGS 7 1/2 minute quadrangle topographic map or as determined by Department field investigation in a karst area. [510 ILCS 77/15(a-5)(2)] Construction standards and specifications shall be utilized as set forth in Subpart B of 35 Ill. Adm. Code 506.

b) Notwithstanding any other requirement of this Subpart, every earthen livestock waste lagoon constructed after June 1, 1998 shall include the construction of a secondary berm, filter strip, grass waterway, or terrace, or any combination of those, outside the perimeter of the primary berm if an engineer licensed under the Professional Engineering Practice Act of 1989 and retained by the registrant determines, with the concurrence of the Department, that construction of such a secondary berm or other feature or features is necessary in order to ensure against a release of livestock waste from the lagoon that encroaches or is reasonably expected to encroach upon land other than the land occupied by the livestock waste handling facility of which the lagoon is a part or that enters or is reasonably expected to enter the waters of this State. [510 ILCS 77/15(a)] Construction standards and specifications shall be utilized as set forth in Subpart B of 35 Ill. Adm. Code 506.

Section 900.603 Registration

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a) Prior to new construction or modification of any earthen livestock waste lagoon on or after the effective date of this Part, such earthen livestock waste lagoon shall be registered by the owner or operator with the Department on a form provided by the Department in accordance with the requirements of this Section. Lagoons constructed prior to October 31, 1996 may register with the Department at no charge. [510 ILCS 77/15(b)] A completed registration shall be filed with the Department at least 37 days prior to the anticipated dates of construction. [510 ILCS 77/11(c)]

b) The registration form, accompanied by a $250 fee, shall include the following:

1) Name(s) and address(es) of the owner and operator who are responsible for the livestock waste lagoon;

2) General location of lagoon;

3) Results of a site investigation conducted in accordance with Subpart B of 35 Ill. Adm. Code 506 to determine whether aquifer material is considered present (or not present) within 50 feet of the planned bottom of the lagoon, the proposed facility is located in the floodway or flood fringe of a 100-year floodplain, and the proposed facility is located in a karst area or within 400 feet of a natural depression in a karst area;

4) Design construction plans and specifications prepared in accordance with the requirements contained in Subpart B of 35 Ill. Adm. Code 506 (including a lagoon plot plan with dimensions and elevations);

5) Specific location information (noted on a facility site map or the lagoon plot plan):

A) The location and distance to the nearest private or public potable well;

B) The location and distance to the closest occupied private residence (other than any occupied by the owner or operator);

C) The location and distance to the nearest stream;

D) The location and distance to the nearest populated area;

E) The location and distance to the nearest abandoned or plugged well, drainage well or injection well located within 1,000 feet of the proposed facility; and

F) The location of any subsurface drainage lines within 100 feet of the lagoon;

6) Anticipated beginning and ending dates of lagoon construction;

7) Type of livestock and number of animal units;

8) A certification by the supervising Licensed Professional Engineer or Licensed Professional Geologist, accompanied by supporting justification and data, certifying that the site investigation meets all the applicable requirements of this Subpart and Subpart B of 35 Ill. Adm. Code 506, whether aquifer material is considered present (or not present) within 50 feet of the planned bottom of the lagoon, the proposed facility is located in the floodway or flood fringe of a 100-year floodplain, and the proposed facility is located in a karst area or within 400 feet of a natural depression in a karst area; and

9) Where applicable, a copy of the synthetic liner manufacturer's compatibility statement and liner maintenance guidelines. [510 ILCS 77/15(b)]

c) The Department, upon receipt of a livestock waste lagoon registration form, shall review the form to determine that all required information has been provided. The person filing the registration shall be notified within 15 working days after receipt by the Department that registration is complete or that clarification information is needed. No later than 10 working days after the receipt of the clarification information, the Department shall notify the owner or operator that registration is complete or that additional clarification information is needed. [510 ILCS 77/15(b)]

d) Construction shall not begin until 30 days after submittal of a registration form by certified mail to the Department unless otherwise restricted by subsection (a) of this Section. [510 ILCS 77/15(b)] In addition, when the county board requests an informational meeting, construction shall not begin until after the informational meeting has been held, the Department has reviewed the county board's recommendation and replied to the recommendation indicating if the proposed new livestock management facility or the new livestock waste handling facility is or will be in compliance with the requirements of the Act, and the owner, operator, or certified manager and operator has received the Department's notice that the setbacks and all applicable requirements of the Act have been met. [510 ILCS 77/12(c)] If no informational meeting is held, the Department shall, within 15 calendar days following the end of the period for the county board to request an informational meeting, notify the owner or operator that construction may begin or that clarification is needed. [510 ILCS 77/12.1(b)]

Section 900.604 Lagoon Construction, Registration, and Certification Inspections

a) The Department shall inspect an earthen livestock waste lagoon during pre-construction, construction, and post-construction and shall require modifications when necessary to ensure the project will be in compliance with the requirements of this Part and 35 Ill. Adm. Code 506. [510 ILCS 77/15(b)]

b) The Department may, as a condition of the issuance of a livestock waste lagoon registration, conduct periodic site inspections of a livestock waste lagoon to assess its degree of compliance with the requirements of the Livestock Management Facilities Act [510 ILCS 77] and the requirements of this Part.

c) The Department shall conduct a certification inspection within 10 business days after receipt of the certification of compliance from

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the lagoon owner or operator pursuant to Section 900.605(c) of this Subpart.

d) The person making any inspection shall comply with reasonable animal health protection procedures as requested by the owner, operator or certified livestock manager. [510 ILCS 77/15(b)]

Section 900.605 Certification of Construction

a) Upon completion of the liner construction or installation, the supervising Licensed Professional Engineer shall certify that the liner meets all the applicable requirements of Subpart B of 35 Ill. Adm. Code 506. Such certification shall be submitted to the Department prior to placing the lagoon in service and shall include supporting data and justification.

b) Upon completion of the construction or modification, but prior to placing the lagoon in service, the owner or operator of the livestock waste lagoon shall certify on a form provided by the Department that the lagoon has been constructed or modified in accordance with the standards set forth in subsection (a) of Section 15 of the Livestock Management Facilities Act [510 ILCS 77/15] and the requirements of this Part and that the information provided on the registration form and other supporting documents as required by this Part is correct. The certification notice to the Department shall include a certification statement and signature. [510 ILCS 77/15(b)]

c) Within 10 business days after receipt of the certification of compliance, the Department shall inspect the lagoon site. The Department shall, within 5 business days after the date of inspection, send an official written notice by certified mail, return receipt requested, to the owner or operator of the facility indicating that all the requirements of Section 15 of the Livestock Management Facilities Act [510 ILCS 77/15] and this Subpart have been met or that deficiencies exist that must be corrected prior to the completion of the lagoon registration process and the placement of the lagoon into service. [510 ILCS 77/15(b)]

d) The owner or operator of the lagoon may proceed to place the lagoon in service after receipt of the Department's notice that all the requirements of Section 15 of the Livestock Management Facilities Act [510 ILCS 77/15] and this Subpart have been met. [510 ILCS 77/15(b)]

Section 900.606 Failure to Register or Construct in Accordance with Standards

a) The owner or operator of any earthen livestock waste lagoon subject to registration that has not been registered or constructed in accordance with standards set forth in subsection (a) of Section 15 of the Livestock Management Facilities Act [510 ILCS 77/15], this Part, and 35 Ill. Adm. Code 506 shall, upon being identified as such by the Department, be given written notice by the Department to register and certify the lagoon within 10 working days after receipt of the notice.

The Department may inspect such lagoon and require compliance in accordance with subsections (a) and (b) of Section 15 of the Livestock Management Facilities Act [510 ILCS 77/15], this Part, and 35 Ill. Adm. Code 506. If the owner or operator of the livestock waste lagoon that is subject to registration fails to comply with the notice, the Department may issue a cease and desist order until such time as compliance is obtained with the requirements of Section 15 of the Livestock Management Facilities Act [510 ILCS 77/15], this Part, and 35 Ill. Adm. Code 506. Failure to construct the lagoon in accordance with the construction plan and Department recommendations is a business offense punishable by a fine of not more than $5,000. [510 ILCS 77/15(f)]

b) If the owner or operator of the livestock waste lagoon that is subject to registration fails to comply with the notice addressing violations occurring during lagoon construction, a cease and desist order to stop construction may be issued by the Department. Changes shall be made to the lagoon by the owner or operator to ensure construction according to the provisions of the Livestock Management Facilities Act [510 ILCS 77], this Part, and 35 Ill. Adm. Code 506. The cease and desist order shall be canceled by the Department upon submission of the registration materials by the lagoon owner or operator to the Department, and after the Department's review of the construction plans and specifications and lagoon registration materials, and after determination by the Department of compliance with the Livestock Management Facilities Act, this Part, and 35 Ill. Adm. Code 506.

c) If the owner or operator of the livestock waste lagoon that is subject to registration fails to comply with the notice addressing violations which occur after completion of lagoon construction, an operational cease and desist order may be issued by the Department. Any necessary changes shall be made to the lagoon by the lagoon owner or operator to comply with the Livestock Management Facilities Act, this Part, and 35 Ill. Adm. Code 506. The operational cease and desist order shall be canceled by the Department after the Department determines compliance with the Livestock Management Facilities Act, this Part, and 35 Ill. Adm. Code 506.

Section 900.607 Lagoon Operational Inspections

a) At least once each year on a random basis, the Department shall inspect every earthen livestock waste lagoon that services 1,000 or more animal units and is required to be registered under the Act. The owner or operator of the lagoon or a certified livestock manager must be present during the inspection. If the owner, operator, or certified livestock manager is not present at the scheduled date, time, and place of the inspection, the inspection shall proceed in his or her absence. The person making the inspection shall conduct a visual inspection to determine only whether any of the following are present: burrow holes, trees or woody vegetation, proper freeboard,

erosion, settling of the berm, bermtop maintenance, leaks, and seepage. The person making the inspection shall discuss with the owner, operator, or certified livestock manager an evaluation of the livestock waste lagoon's current condition and shall provide on-site written recommendations to the owner, operator, or certified livestock manager of what corrective actions are necessary or shall inform the owner, operator, or certified livestock manager that the lagoon meets the standards set forth in this subsection. [510 ILCS 77/16]

b) The person making any inspection shall comply with reasonable animal health protection procedures as requested by the owner, operator, or certified livestock manager. [510 ILCS 77/16]

c) The Department shall send official written notice of any deficiencies to the owner or operator of the lagoon by certified mail, return receipt requested. The owner or operator and the Department shall enter into an agreement of compliance setting forth the specific action and timetable to correct the deficiencies. The person making the reinspection shall notify the Department of the results of the reinspection, and the Department shall take the appropriate action under this Section. If the Department's inspector finds a release or evidence of a release, the Department shall immediately report such information to the Agency. [510 ILCS 77/16]

d) The following penalties shall be assessed for violations of this Section:

1) For a first violation of this Section by the owner or operator of a livestock management facility or livestock waste handling facility, the Department shall send the owner or operator a written notice of the violation by certified mail, return receipt requested.

2) If after an administrative hearing the Department finds that the owner or operator of a livestock management facility or livestock waste handling facility has committed a second violation of this Section, the Department shall impose on the owner or operator a civil administrative penalty in an amount not exceeding $1,000. The Attorney General may bring an action in the circuit court to enforce the collection of a penalty imposed under this Section.

3) If after an administrative hearing the Department finds that the owner or operator of a livestock management facility or livestock waste handling facility has committed a third violation of this Section, the Department shall enter an administrative order directing that the owner or operator cease operation of the facility until the violation is corrected.

4) If a livestock management facility or livestock waste handling facility has not committed a violation of this Section within the 5 years immediately preceding a violation, the violation shall be construed and treated as a first violation. [510 ILCS 77/16]

Section 900.608 Lagoon Closure

a) When any livestock waste lagoon is removed from service, it shall be completely emptied. Appropriate closure procedures shall be followed as determined by the requirements of this Part. [510 ILCS 77/15(e)]

1) In the event that any livestock waste lagoon is removed from service, the requirements contained in Section 15(e) of the Livestock Management Facilities Act [510 ILCS 77/15(e)] shall be met. The owner or operator shall notify the Department in writing when a lagoon is removed from service. Within 60 days after removal of the lagoon from service, the owner or operator shall submit a lagoon closure plan to the Department for review and approval. If no lagoon closure plan is received by the Department within 60 days, the Department shall send the lagoon owner a notice of default.

2) The lagoon closure plan shall provide for the following;

A) A location area map of the lagoon and surrounding area;

B) The sampling, analysis for total nitrogen, ammonium nitrogen, and phosphorus, and reporting of results of all remaining livestock waste, sludge and minimum six-inch thickness of soil from throughout the lagoon interior;

C) The removal of all remaining livestock waste including sludge, the removal of a minimum 6 inch thickness of soil from throughout the lagoon interior, and the application of these materials to crop land at agronomic rates as set forth in Subpart H of this Part or their otherwise proper disposal;

D) The removal of all associated appurtenances, including but not limited to transfer lines, ramps, pumping ports and other waste conveyance structures;

E) The proper management of any impounded precipitation in the remaining excavation if it is not immediately filled and the area immediately returned to its pre-construction condition;

F) The proper abandonment of any monitoring wells conducted pursuant to the Illinois Water Well Construction Code at 77 Ill. Adm. Code 920.120;

G) The restoration of the topography at the lagoon site to its pre-construction condition; and

H) A proposed time frame for the completion of the closure activities no greater than two years from the cessation of operation date unless the lagoon is maintained or serviced.

3) The Department shall review and approve, reject, or request additional information relative to the lagoon closure plan.

4) The Department may also grant a waiver to any of the closure requirements of this Section that will permit the lagoon to be used for an alternative purpose. [510 ILCS 77/15(e)] Each request for a waiver shall contain a certification from a Licensed Professional Engineer or Licensed Professional Geologist, as relevant, that the grant of the waiver is at least as protective of the groundwater and surface water as the stated

requirements. The Department shall notify the applicant in writing of its determination within 30 days after receipt of the request for a waiver. To grant the waiver, the Department must determine that the waiver is at least as protective as the stated requirements.

5) Upon completion of the lagoon closure activities as prescribed by the Department-approved closure plan, the owner or operator shall notify the Department. The Department shall conduct a site inspection and issue a written notification of closure completion or inform the owner or operator of any unresolved closure issues.

b) A lagoon is considered removed from service when:

1) The Department has ordered the lagoon removed from service under Section 900.720 of this Part;

2) A tribunal of competent jurisdiction has ordered the lagoon closed or ordered the owner or operator to cease operations;

3) The lagoon no longer receives livestock waste and the lagoon is not being serviced or maintained;

4) The owner fails to extend the term for which evidence of financial responsibility is shown as required in Section 900.702(b) of this Part; or

5) The owner or operator informs the Department in accordance with subsection (a)(1) of this Section that the lagoon has been removed from service.

Section 900.609 Odor Control

a) Operators of livestock waste handling facilities shall practice odor control methods during the course of manure removal and field application. Odor control methods shall be those methods identified in the rules adopted pursuant to the Illinois Environmental Protection Act concerning agriculture related pollution as set forth in 35 Ill. Adm. Code 501.405(b). [510 ILCS 77/25(a)]

b) Every single-stage livestock waste lagoon constructed after June 1, 1998 shall comply with the following operational guidelines:

1) In operation, the lagoon must be maintained at not less than the minimum design volume.

2) The livestock waste supply to the lagoon must be below the minimum design volume level. [510 ILCS 77/25(b)]

c) Every livestock waste lagoon constructed or modified after June 1, 1998 shall be initially charged with water to at least 60% of the minimum design volume prior to the initial addition of waste.

d) Upon the occurrence of a violation of this Section, the following procedures shall be followed:

1) For a first violation of this Section by the owner or operator of a livestock management facility or livestock waste handling facility, the Department shall send the owner or operator a written notice of the violation by certified mail, return receipt requested.

2) If after an administrative hearing the Department finds that the owner or operator of a livestock management facility or livestock waste handling facility has committed a second violation of this Section, the Department shall impose on the owner or operator a civil administrative penalty in an amount not exceeding $1,000. The Attorney General may bring an action in the circuit court to enforce the collection of a penalty imposed under this Section.

3) If after an administrative hearing the Department finds that the owner or operator of a livestock management facility or livestock waste handling facility has committed a third violation of this Section, the Department shall enter an administrative order directing that the owner or operator cease operation of the facility until the violation is corrected.

4) If a livestock management facility or livestock waste handling facility has not committed a violation of this Section within the 5 years immediately preceding a violation, the violation shall be construed and treated as a first violation. [510 ILCS 77/25(d)]

Section 900.610 Ownership Transfer

Upon a change in ownership of a registered livestock waste lagoon, the new owner shall notify, in writing, the Department of the change within 30 working days after the closing of the transaction. [510 ILCS 77/15(e)]

SUBPART G: LAGOON FINANCIAL RESPONSIBILITY

Section 900.701 Scope, Applicability, and Definitions

a) This Subpart provides procedures by which the owner of a new or modified livestock waste lagoon registered under the Livestock Management Facilities Act provides evidence of financial responsibility satisfying the requirements of Section 17 of the Livestock Management Facilities Act.

b) Owners of lagoons must comply with the financial responsibility requirements of this Part either:

1) on or before June 1, 1999; or

2) before the lagoon is placed in service.

c) For the purposes of this Subpart, the following terms have the following meanings:

1) "Audited financial statement" means financial statements, including a balance sheet and notes to financial statements, prepared in conformity with generally accepted accounting principles following an examination conducted in accordance with generally accepted auditing standards that has attached the unqualified opinion of an independent certified public accountant licensed under Illinois law or an entity permitted to engage in the practice of public accounting under subsection (b)(3) of Section 14 of the Illinois Public Accounting Act [225 ILCS

450/14].

2) "Financial institution" means:
   A) An insurer providing commercial or private insurance to evidence financial responsibility for lagoon closure in accordance with Section 900.709 of this Part;
   B) A guarantor providing a guarantee as evidence of financial responsibility for lagoon closure in accordance with Section 900.710 of this Part;
   C) The issuer of a surety bond as evidence of financial responsibility for lagoon closure in accordance with Section 900.711 of this Part;
   D) The issuer of a letter of credit as evidence of financial responsibility for lagoon closure in accordance with Section 900.712 of this Part; or
   E) The livestock waste lagoon closure fund managed by the Illinois Farm Development Authority that evidences financial responsibility for lagoon closure in accordance with Section 900.714 of this Part.
3) "Guarantor" means a person who assumes all or part of the obligations of a lagoon owner for closure of a lagoon in accordance with Section 900.710 of this Part. For purposes of this definition, the owner of the lagoon may be the guarantor provided adequate resources exist to guarantee the closure costs in accordance with Section 900.710 of this Part.
4) "Level of surety" means the level, calculated in accordance with Section 900.703 of this Part, at which evidence of financial responsibility must be provided.
5) "Surety instrument" means any of the devices listed in Section 900.702 of this Part by which a lagoon owner evidences financial responsibility for lagoon closure. Unless the context requires otherwise, "surety instrument" includes a combination of surety instruments.

Section 900.702 Mechanisms for Providing Evidence of Financial Responsibility

a) Financial responsibility may be evidenced by any combination of the following:
   1) Commercial or private insurance;
   2) Guarantee;
   3) Surety bond;
   4) Letter of credit;
   5) Certificate of deposit or designated savings account; or
   6) Participation in a livestock waste lagoon closure fund managed by the Illinois Farm Development Authority. [510 ILCS 77/17]

b) The lagoon owner must provide continuous coverage from the time the lagoon is placed in service until such time as the owner is released from the financial responsibility requirements pursuant to Section 900.705(a) of this Part. The initial term of any surety instrument

(other than a certificate of deposit or designated savings account) utilized to fulfill the requirements of this Part must be at least three years. At least two years prior to the expiration date of such instrument, the owner must provide the Department with proof that the term of coverage has been extended for at least one additional year.

c) Upon a change in the ownership of a livestock management facility or livestock waste handling facility involving a lagoon that is subject to the financial responsibility requirements of this Subpart, the new owner must establish and maintain evidence of financial responsibility at the same level of surety as the previous owner.

d) The lagoon owner must ensure that the terms and conditions of the surety instrument(s) listed in subsection (a) of this Section upon which the owner relies are legally valid, binding, and enforceable under State and federal law.

Section 900.703 Level of Surety

a) The level of surety is determined by the following formula:

Level of Surety = (V x CF) + EC

where:

V = Volume of the lagoon as constructed or modified, in cubic feet, including the freeboard volume

CF = Cost factor determined pursuant to subsection (b) of this Section

EC = Engineering contingency determined under subsection (c) of this Section

b) The cost factor is obtained from the following:
   1) Through December 31, 2002, the cost factor is 10 cents per cubic foot of lagoon volume.
   2) On and after January 1, 2003 through December 31, 2007, the cost factor is 12 cents per cubic foot of lagoon volume.
   3) On and after January 1, 2008, the cost factor is 15 cents per cubic foot of lagoon volume.

c) The engineering contingency is equal to 10% of (V x CF).

Section 900.704 Upgrading Surety Instrument

a) The owner of a lagoon must increase the total amount of surety in place so as to equal the level of surety as calculated within 90 days after:
   1) a modification resulting in an increase in the volume of the lagoon; or

2) an increase in the cost factor under Section 900.703(b) of this Part.

b) If modification of a lagoon results in a decrease in volumetric capacity, the owner or operator may provide the Department with documentation of the reduction in volumetric capacity and request a recalculation of the level of surety. Within 90 days after a request by the owner or operator under this subsection (b), the Department must either:
   1) release any surety amount above the level of surety as recalculated based upon the owner's documentation of reduction of volumetric capacity; or
   2) conduct an inspection and determine the amount by which volumetric capacity has been decreased.

c) If the Department conducts an inspection under subsection (b), then the Department must release any surety amount above the level of surety as recalculated based upon the results of the inspection.

Section 900.705 Release of Lagoon Owner and Financial Institution

a) The Department must release a lagoon owner from the requirements of this Subpart when:
   1) The lagoon has been properly closed and a notification of closure completion pursuant to Section 900.608 of this Part has been issued to the lagoon owner by the Department; or
   2) A waiver has been granted by the Department to the lagoon owner allowing the lagoon to be used for an alternative purpose; or
   3) Title of the property containing the lagoon has been transferred to a new owner and the new owner has posted financial assurance as required under Section 900.702(c) of this Part.

b) The Department must release a financial institution when:
   1) A lagoon owner offers an authorized alternative surety that meets the requirements of Section 900.707(c) of this Part; or
   2) The Department releases the lagoon owner from the requirements of this Subpart under subsection (a) of this Section.

c) The Department must notify the lagoon owner and financial institution in writing within 60 days after a release under this Section. If a release is based upon proper closure of a lagoon, notification under this subsection (c) should occur at the same time as notice of proper closure under Section 900.608(a)(5).

Section 900.706 Financial Responsibility Proceeds

a) A financial institution issuing a surety instrument evidencing financial responsibility for closure of a livestock waste lagoon becomes liable on the surety instrument when a lagoon is removed from service and:
   1) The owner fails to submit the lagoon closure plan required by Section 900.608 of this Part and:

      A) cannot be found; or
      B) fails to cure such failure within 30 days after notice from the Department;
   2) The owner fails to obtain Department approval of a lagoon closure plan within eight months after the date that the lagoon is removed from service, unless the lagoon is maintained or serviced; or
   3) The owner fails to comply with an approved lagoon closure plan and:
      A) cannot be found; or
      B) fails to cure such noncompliance within 30 days after notice from the Department.

b) The Department must provide notice to the financial institution providing surety for the lagoon:
   1) when it determines that the lagoon has been removed from service; and
   2) when it determines that one of the criteria for liability set forth in subsection (a) of this Section has been met.

c) Within 30 days after notice of liability from the Department, the financial institution must either assume liability for closure of the lagoon and notify the Department of its election to assume liability, or deposit the amount for which it is liable in connection with the lagoon into an account from which the Department is authorized to disburse funds for the purpose of closing the lagoon.
   1) If the financial institution assumes liability for closure of the lagoon, it must submit a lagoon closure plan that meets the requirements of Section 900.608 of this Part within 60 days after notifying the Department of its election. Notwithstanding the financial institution's assumption of liability for closure of the lagoon, the Department may require the financial institution to deposit funds up to the amount for which the financial institution is liable under the surety instrument into an account from which the Department is authorized to disburse funds for the purpose of closing the lagoon if:
      A) The financial institution does not submit the lagoon closure plan as required and fails to cure such omission within 30 days after notice from the Department;
      B) The financial institution fails to obtain Department approval of a lagoon closure plan within eight months after the date that it elects to assume liability for closure of the lagoon, unless the lagoon is maintained or serviced; or
      C) The financial institution fails to comply with an approved lagoon closure plan and fails to cure such noncompliance within 30 days after notice from the Department.
   2) A financial institution that assumes liability for closure of a lagoon under this Section remains liable for the full amount of the surety instrument until the Department issues written notification of completion of closure in accordance with Section

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900.608 of this Part, notwithstanding the expiration of the instrument utilized to evidence financial responsibility by the owner.

3) Any amounts that a financial institution may expend for service or maintenance of the lagoon pending closure or partial closure of the lagoon do not reduce the amount of the financial institution's obligation under this subsection (c).

4) If the financial institution elects, or is required under subsection (c)(1) of this Section, to deposit the funds required by the Department into an account from which the Department is authorized to disburse funds for the purpose of closing the lagoon, then the Department shall close the lagoon within the time frame established under Section 15(e) of the Livestock Management Facilities Act [510 ILCS 77/15(e)] or as soon as practicable, to the extent possible utilizing the funds deposited by the financial institution. The Department may use any interest earned on deposited funds to close the lagoon. The Department must release any funds remaining in the account, including any remaining interest earned on funds in the account, to the financial institution upon completion of closure.

d) The Department may sue in any court of competent jurisdiction to enforce its rights under any surety instrument.

Section 900.707 Use of Multiple Surety Instruments

a) The lagoon owner may use any combination of the surety instruments listed in Section 17 of the Livestock Management Facilities Act [510 ILCS 77/17] and this Subpart to evidence the required level of financial responsibility.

b) A lagoon owner is not limited to maintaining financial responsibility with the original surety instrument or combination of instruments. The owner must notify the Department before making any change in surety instruments.

c) If a lagoon owner makes any change in surety instruments, the lagoon owner must maintain the total financial responsibility for the lagoon at a level not less (without counting the amounts to be released) than the level of surety.

d) A replacement surety instrument or instruments must provide evidence of financial responsibility for a period at least equal to the existing instrument or instruments. This provision does not relieve an owner of the obligation under Section 900.702(b) of this Part to provide proof at least two years prior to expiration of a surety instrument that the term for which financial responsibility has been demonstrated has been extended for at least an additional year.

Section 900.708 Use of a Single Surety Instrument for Multiple Lagoons

a) An owner may use a surety instrument specified in this Subpart to

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provide evidence of financial responsibility for more than one lagoon.

b) Whenever a single surety instrument is used for multiple lagoons, the owner must submit an itemization to the Department identifying all lagoons covered by the surety instrument and the amount allocated to each lagoon.

c) The amount of funds available through the surety instrument must be no less than the sum of funds that would be available if a separate surety instrument had been established and maintained for each lagoon.

d) In directing funds available through a single surety instrument for the closure of any single lagoon covered by that surety instrument, the Department shall direct only the amount of funds designated for that lagoon, unless the owner agrees to allow the Department to use additional funds available under that surety instrument. Such an agreement does not affect the owner's obligation to provide evidence of financial responsibility up to the level of surety for all other lagoons.

Section 900.709 Commercial or Private Insurance

a) A lagoon owner may provide evidence of financial responsibility for closure of a livestock waste lagoon by obtaining closure insurance that conforms to the requirements of this Subpart and submitting an executed duplicate original of such insurance policy to the Department.

b) The insurer must be licensed to transact the business of insurance by the Illinois Department of Insurance pursuant to the Illinois Insurance Code [215 ILCS 5].

c) The policy must be on forms approved by the Illinois Department of Insurance.

d) The closure insurance policy must guarantee that funds will be available to close the lagoon. The policy must also guarantee that, upon a notice of liability from the Department, the insurer will be responsible for paying out funds, up to an amount equal to the face amount of the policy, in accordance with Section 900.706(c) of this Part.

e) The policy must provide that the insurer may not cancel or terminate the policy.

Section 900.710 Guarantee

a) A lagoon owner may provide evidence of financial responsibility for closure of a livestock waste lagoon by obtaining a guarantee that conforms to the requirements of this Subpart.

b) When a guarantee is initially established for a facility, a guarantor shall submit a financial statement to the Department from the guarantor's most recent fiscal year. Thereafter on an annual basis, the guarantor shall submit a financial statement to the Department within 90 days after the close of the guarantor's fiscal year.

c) The financial statement required pursuant to subsection (b) of this Section shall be provided to the Department in one of the following formats:
   1) An audited financial statement; or
   2) On a form provided by the Department, prepared by an accountant not employed by or possessing a financial interest in the livestock facility, and notarized.
d) The Department will review the financial statement submitted pursuant to subsection (c) of this Section, determine if adequate resources exist to guarantee the closure costs, and notify the lagoon owner of acceptance or denial within 30 days after receipt of the financial statement by the Department. The Department shall determine that adequate resources exist to guarantee the closure costs when an equity to level of surety ratio of 1.5 or greater is demonstrated through the financial statement.
e) The guarantor shall guarantee to pay the amount specified in the guarantee upon notice from the Department as provided in Section 900.706(c) of this Part.

Section 900.711 Surety Bond

a) A lagoon owner may provide evidence of financial responsibility for closure of a livestock waste lagoon by obtaining a surety bond that conforms to the requirements of this Subpart and submitting the bond to the Department.
b) The surety company issuing the bond must be licensed by the Illinois Department of Insurance pursuant to the Illinois Insurance Code [215 ILCS 5] and approved by the U.S. Department of the Treasury as an acceptable surety. Acceptable sureties are listed in Circular 570 from the U.S. Department of the Treasury.
c) The bond must guarantee that the lagoon owner will provide lagoon closure and content removal in accordance with Section 900.608 of this Part.
d) The surety bond must be in substantially the form specified in Appendix A, Illustration A of this Part.

Section 900.712 Letter of Credit

a) A lagoon owner may provide evidence of financial responsibility for closure of a livestock waste lagoon by obtaining an irrevocable standby letter of credit that conforms to the requirements of this Subpart and submitting the letter to the Department.
b) The issuing institution must be an entity that has the authority to issue letters of credit and:
   1) whose letter of credit operations are regulated by the Illinois Commissioner of Banks and Real Estate; or
   2) whose deposits are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

c) The letter of credit made out to the Department must be accompanied by a letter from the lagoon owner referring to the letter of credit by number, issuing institution, and date and providing the following information: name and address of the lagoon site and the amount of funds assured for closure of the lagoon by the letter of credit.
d) The letter of credit must be substantially in the form specified in Appendix A, Illustration B of this Part.

Section 900.713 Certificate of Deposit or Designated Savings Account

a) A lagoon owner may provide evidence of financial responsibility for closure of a livestock waste lagoon by designating certificate(s) of deposit or savings account(s) for use as financial responsibility.
b) The issuing or depository financial institution must be an entity whose deposits are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.
c) The Department may draw on the certificate(s) of deposit or savings account(s) to pay the costs of closing a lagoon in accordance with this subsection. The Department shall close a lagoon when the lagoon is removed from service and:
   1) The owner fails to submit the lagoon closure plan required by Section 900.608 of this Part and:
      A) cannot be found; or
      B) fails to cure such failure within 30 days after notice from the Department;
   2) The owner fails to obtain Department approval of a lagoon closure plan within eight months after the date that the lagoon is removed from service, unless the lagoon is maintained or serviced; or
   3) The owner fails to comply with an approved lagoon closure plan and:
      A) cannot be found; or
      B) fails to cure such noncompliance within 30 days after notice from the Department.
d) The Director of the Department shall be listed as trustee of the certificate(s) of deposit or savings account(s) for the lagoon owner.
e) At maturity of any certificate of deposit designated as financial responsibility for lagoon closure, the certificate shall be renewed or the proceeds deposited into a designated savings account that meets the requirements of this Section.
f) The Department shall relinquish trusteeship of the certificate(s) of deposit or savings account(s) when:
   1) The lagoon has been properly closed and a notification of closure completeness pursuant to Section 900.608 of this Part has been issued to the lagoon owner by the Department;
   2) A waiver has been granted by the Department to the lagoon owner allowing the lagoon to be used for an alternative purpose

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pursuant to Section 900.608 of this Part;

3) Title of the property containing the lagoon has been transferred to a new owner and the new owner has posted financial assurance as required under Section 900.702(c) of this Part; or

4) A lagoon owner offers an authorized alternative surety which meets the requirements of Section 900.707(c) of this Part.

Section 900.714 Participation in a Livestock Waste Lagoon Closure Fund

a) A lagoon owner may provide evidence of financial responsibility for closure of a livestock waste lagoon by participating in a livestock waste lagoon closure fund managed by the Illinois Farm Development Authority. An owner electing to provide evidence of financial responsibility under this Section must submit a certificate of participation in such a lagoon closure fund to the Department.

b) The certificate of participation submitted pursuant to subsection (a) of this Section must include:
   1) the level of surety for the lagoon;
   2) the dollar amount of coverage provided by the lagoon closure fund;
   3) the dates for which coverage is provided; and
   4) a financial statement of the lagoon closure fund establishing the lagoon closure fund's compliance with the requirements of this Section.

c) The lagoon closure fund must maintain minimum reserves equal to the greater of:
   1) the level of surety of the largest lagoon covered by the lagoon closure fund; or
   2) twice the average level of surety of lagoons covered by the fund.

d) The lagoon closure fund must guarantee that funds will be available to close the lagoon. Upon a notice of liability from the Department, the lagoon closure fund must comply with the requirements of Section 900.706(c) of this Part.

e) If the reserves of the lagoon closure fund are reduced to less than the minimum amount required under subsection (b) due to expenditures of funds in order to comply with Section 900.706(c), then within 120 days after such reduction the lagoon closure fund must demonstrate to the Department that the minimum reserve level has been restored.

f) The lagoon closure fund may not cancel or terminate coverage prior to the date set forth in the certification pursuant to subsection (b)(3) of this Section.

Section 900.720 Penalties

The Department may order a lagoon removed from service if the owner fails to provide evidence of financial responsibility to the Department or fails to maintain financial responsibility in the amount required pursuant to Section 900.703 of this Subpart.

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SUBPART H: WASTE MANAGEMENT PLAN

Section 900.801 Purpose

Livestock waste management plans shall be prepared by livestock management facility owners or operators to provide for adequate land area for the proper application of livestock waste at rates not to exceed the agronomic nitrogen demand of the crops to be grown when averaged over a 5-year period or at the phosphorus rate, depending on soil test results. [510 ILCS 77/20(f)(4)]

Section 900.802 Scope and Applicability

a) A waste management plan shall be prepared according to the requirements contained in Section 20 of the Livestock Management Facilities Act [510 ILCS 77/20] and in this Subpart. The application of livestock waste to the land is an acceptable, recommended, and established practice in Illinois. However, when livestock waste is not applied in a responsible manner, it may create pollutional problems. It is considered acceptable to prepare and implement a waste management plan based on a nitrogen rate, unless otherwise restricted by Section 20 of the Livestock Management Facilities Act and this Part. [510 ILCS 77/20(f)]

b) The livestock management facility owner or operator at a facility of less than 1,000 animal units shall not be required to prepare and maintain a waste management plan. [510 ILCS 77/20(b)]

c) The livestock management facility owner or operator at a facility of 1,000 or greater animal units but less than 5,000 animal units shall prepare, maintain and implement a waste management plan and comply with the following:
   1) For facilities which commence operations or reach or exceed 1,000 animal units after the effective date of this Part, the owner or operator shall prepare, maintain, and implement a waste management plan within 60 working days after commencing operations or exceeding 1,000 animal units;
   2) Prior to the expiration of the waste management plan preparation period, the owner or operator shall submit to the Department a form certifying that a waste management plan has been prepared. The form shall list the animal unit capacity of the facility and the location of the plan;
   3) The waste management plan and records of livestock waste disposal shall be kept on file at the facility for a period of three years and shall be available for inspection by Department personnel during normal business hours; and
   4) Notwithstanding the provisions of this subsection (c), a livestock management facility subject to this subsection (c) may be operated on an interim basis but not to exceed 6 months after the effective date of this Part to allow for the owner or operator of the facility to develop a waste management plan.

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[510 ILCS 77/20(c)]

d) The livestock management facility owner or operator at a facility of 5,000 or greater animal units shall prepare, maintain, implement, and submit to the Department the waste management plan for approval [510 ILCS 77/20(d)] and comply with the following:
   1) For facilities which commence operations after the effective date of this Part, the owner or operator shall submit a waste management plan to the Department. The facility shall not commence operation before the Department approves the plan;
   2) For existing facilities that reach or exceed 5,000 animal units through expansion, the owner or operator shall submit for approval by the Department a waste management plan within 60 working days after reaching or exceeding 5,000 animal units; and
   3) The waste management plan and records of livestock waste disposal shall be kept on file at the facility for a period of three years and shall be available for inspection by Department personnel during normal business hours.

e) The owner or operator of multiple livestock management facilities under common facility ownership where the cumulative animal units of the facilities are equal to or greater than the animal unit numbers provided for in subsection (c) of this Section shall prepare and keep on file at each facility a waste management plan in accordance with the requirements of subsection (c) of this Section. The owner or operator of multiple livestock management facilities that are under common facility ownership where the cumulative animal units of the facilities are equal to or greater than the animal unit numbers provided for in subsection (d) of this section shall prepare and file with the Department a waste management plan in accordance with the provisions of subsection (d) of this Section. Cumulative animal units shall be determined by combining the animal units of multiple livestock management facilities under the common facility ownership based upon the maximum design capacity of each facility. For the purposes of this subsection, "under common facility ownership" means the same person or persons own, directly or indirectly, through majority owned business entities at least 51% of any person or persons (as defined by Section 10.55 of the Livestock Management Facilities Act [510 ILCS 77/10.55]) that own or operate the livestock management facility or livestock waste handling facility located in the State of Illinois. [510 ILCS 77/20(d-5)] A separate waste management plan shall be developed for each livestock waste handling facility.

f) Waste management plans prepared pursuant to the emergency amendment adopted in R97-14 at 20 Ill. Reg. 14903, effective October 31, 1996, the emergency rules adopted in R97-14 at 21 Ill. Reg. 4313, effective March 31, 1997, and the rules adopted in R97-15(A) at 21 Ill. Reg. 6851, effective May 20, 1997 shall be revised as follows:
   1) The owner or operator of an existing facility of 1,000 or greater animal units but less than 5,000 animal units shall prepare a new or revised waste management plan that complies with the requirements of this Part and submit a waste management plan certification form to the Department pursuant to Section 900.802(c)(2) of this Subpart within 60 days after the effective date of this Part.
   2) The owner or operator of an existing facility of 5,000 or greater animal units shall prepare a new or revised waste management plan that complies with the requirements of this Part for submittal to and review by the Department within 60 days after the effective date of this Part.

g) For the purposes of this Subpart, the number of animal units served by a livestock waste handling facility shall be determined as the maximum design capacity of the livestock management facility which is being served by the livestock waste handling facility.

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Section 900.803 Waste Management Plan Contents

The livestock waste management plan shall contain the following items:

a) Name, address, and phone number of the owner(s) of the livestock facility;
b) Name, address, and phone number of the manager(s) or operator(s) if different than the owner(s);
c) Address, phone number, and plat location of the facility(ies);
d) Type of waste storage for the facility(ies);
e) Species, general size, number of animals, and number of animal units at the facility(ies);
f) Aerial photos or maps depicting fields available and intended for livestock waste applications with available acreage listed and indicating residences, non-farm businesses, common places of assembly, streams, wells, waterways, lakes, ponds, rivers, drainage ditches, other water sources, and areas restricted for application by this Subpart;
g) For application fields not owned or rented, copies of waste application agreements between the owner or operator of the livestock facility(ies) and the owner of the land where livestock waste will be applied;
h) Cropping schedule for each field for the past year, anticipated crops for the current year, and anticipated crops for the next two years after the current year;
i) Targeted crop yield goal for each crop in each field;
j) An estimate of the nutrient value of the waste [510 ILCS 77/20(f)(3)];
k) Livestock waste application methods;
l) Results of the Bray Pl or Mehlich test for soil phosphorus reported in pounds of elemental phosphorus per acre [510 ILCS 77/20(f)(3.5)];
m) Calculations showing the following:
   1) An estimate of the volume of livestock waste to be disposed of annually [510 ILCS 77/20(f)(1)];
   2) Nitrogen loss due to the method of storage, if applicable;
   3) Amount of nitrogen available for application;

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4) Nitrogen loss due to the method of application;
5) Amount of plant-available nitrogen including first-year mineralization of organic nitrogen;
6) Amount of nitrogen required by each crop in each field based on targeted crop yield goal;
7) Nitrogen credits from previous crops, from other sources of fertilizer applied for the growing season, and from any manure applications during the previous three years for each application field;
8) Livestock waste application rate based on nitrogen for each application field; and
9) Land area required for application;

n) A listing of fields and the planned livestock waste application amounts for each field;

o) A provision that livestock waste applied within 1/4 mile of any residence not part of the facility shall be injected or incorporated on the day of application. However, livestock management facilities and livestock waste handling facilities that have irrigation systems in operation prior to May 21, 1996, or existing facilities applying waste on frozen ground, are not subject to the provisions of this subsection (o) [510 ILCS 77/20(f)(5)];

p) A provision that livestock waste may not be applied within 200 feet of surface water unless the water is upgrade or there is adequate diking and waste will not be applied within 150 feet of potable water supply wells [510 ILCS 77/20(f)(6)];

q) A provision that livestock waste may not be applied in a 10-year flood plain unless the injection or incorporation method of application is used [510 ILCS 77/20(f)(7)];

r) A provision that livestock waste may not be applied in waterways. [510 ILCS 77/20(f)(8)] For the purposes of this Part, a grassed area serving as a waterway may receive livestock waste through an irrigation system if there is no runoff, the distance from applied livestock waste to surface water is greater than 200 feet, the distance from applied livestock waste to potable water supply wells is greater than 150 feet; the distance from applied livestock waste to a non-potable well, an abandoned or plugged well, a drainage well, or an injection well is greater than 100 feet; and precipitation is not expected within 24 hours;

s) A provision that if waste is spread on frozen or snow-covered land, the application will be limited to land areas on which:
   1) land slopes are 5% or less; or
   2) adequate erosion control practices exist [510 ILCS 77/20(f)(9)];

t) For livestock facilities utilizing an earthen lagoon or other earthen waste storage structure, a provision that the owner, operator, or certified livestock manager shall inspect all bermtops, exterior berm sides, and non-submerged interior berm sides for evidence of erosion, burrowing animal activity, and other indications of berm degradation on a frequency of not less than once every two weeks; and

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u) A provision that livestock waste may not be applied during a rainfall or to saturated soil and that conservative waste loading rates will be used in the case of a high water table or shallow earth cover to fractured bedrock. Caution should be exercised in applying livestock wastes, particularly on porous soils, so as not to cause nitrate or bacteria contamination of groundwaters.

Section 900.804 Livestock Waste Volumes

The estimate of the annual volume of available livestock waste for application, as required in Section 900.803(m)(1) of this Part, shall be obtained by multiplying the number of animals constituting the maximum design capacity of the facility by the appropriate amount of waste generated by the animals. [510 ILCS 77/20(f)(1)] The following sources may be used to obtain the amount of waste generated: MidWest Plan Service, MWPS-18, Livestock Waste Facilities Handbook, Table 2-1, or 35 Ill. Adm. Code 560, Table 1.

Section 900.805 Nutrient Value of Livestock Waste

a) The owner or operator may prepare a plan based on an average of the minimum and maximum numbers in the table values derived from MidWest Plan Service's MWPS-18, Livestock Waste Facilities Handbook (Table 2-1, 10-6, or 10-7) or the Agency's Agriculture Related Pollution regulations (35 Ill. Adm. Code 560, Table 1 or Table 2), or the results of analysis performed on samples of waste. [510 ILCS 77/20(f)(3)] If "as produced" or "as excreted" nutrient values are used, the nitrogen value shall be adjusted to account for losses due to the type of storage system utilized using an average of the ranges in MidWest Plan Service, MWPS-18, Livestock Waste Facilities Handbook, Table 10-1. Other sources of nutrient values may be used if approved by the Department.

b) If results of an analysis performed on samples of waste are used for the nutrient values in a plan, the following procedures shall be followed:
   1) The livestock waste handling facility owner or operator shall annually obtain a laboratory analysis of the nutrient content of the livestock waste to be applied to land as provided within the waste management plan. Livestock waste shall be sampled during the application process. Multiple subsamples shall be obtained and combined into one sample so that a representative sample is obtained for analysis. Results of a sample taken during waste application the previous year can be used for plan preparation unless there has been a change in the waste management practices during the year.
   2) Livestock waste sampling shall be performed under the direction of a certified livestock manager to ensure a representative sample from the livestock waste storage facility and to preserve the integrity of the sample.

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3) The laboratory analysis of the livestock waste sample shall include, but not be limited to, total nitrogen, ammonium nitrogen, total phosphorus, and total potassium. Results of the analysis shall be included in the waste management plan.

Section 900.806 Adjustments to Nitrogen Availability

Adjustments shall be made to nitrogen availability to account for the following:

a) Nitrogen loss from livestock waste due to method of application, as required in Section 900.803(m)(4) of this Part and obtained from an average of the ranges in MidWest Plan Service, MWPS-18, Livestock Waste Facilities Handbook, Table 10-2; and

b) The first-year mineralization of organic nitrogen into a plant available form, as required in Section 900.803(m)(5) of this Part and obtained from MidWest Plan Service, MWPS-18, Livestock Waste Facilities Handbook, Table 10-5.

Section 900.807 Targeted Crop Yield Goal

a) The targeted crop yield goal, as required in Section 900.803(m)(6) of this Part, shall be determined for each field where the livestock waste is to be applied. The targeted crop yield goal shall be determined by obtaining an average yield over a five-year period from the field where livestock waste is to be applied. The following listing of sources of data shall be utilized to determine the targeted crop yield goal.
   1) Proven yields. The proven yield shall be determined by obtaining an average yield over a five-year period from the field where livestock waste is to be applied. The owner or operator shall indicate the method used to determine the proven yield. Data from years with crop disasters may be discarded. Proven yields shall be used unless there is a sound agronomic basis for predicting a different targeted crop yield goal;
   2) Crop insurance yields. A copy of the crop insurance yields shall be included in the plan; or
   3) Farm Service Agency - United States Department of Agriculture yields. A copy of the assigned crop yields shall be included in the plan.

b) Soils based yield data from the Natural Resources Conservation Service of the United States Department of Agriculture shall be used if the owner or operator cannot obtain a targeted crop yield goal pursuant to subsection (a) of this Section. A soil map of the application areas shall be included in the plan. The targeted crop yield goal shall be determined by a weighted average of the soil interpretation yield estimates for the areas that will receive livestock waste.

c) Nitrogen and phosphorus fertilization rates for the targeted crop yield goal may be obtained from the Illinois Agronomy Handbook, or 35

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Ill. Adm. Code 560, Appendix A.

Section 900.808 Nitrogen Credits

a) Nitrogen credits shall be calculated by the livestock facility owner or operator, pursuant to Section 900.803(m)(7) of this Part, for nitrogen-producing crops grown the previous year, for other sources of nitrogen applied for the growing season, and for mineralized organic nitrogen in livestock waste applied during the previous three years.

b) Nitrogen credits shall be calculated by the livestock facility owner or operator for the mineralized organic nitrogen in livestock waste applied during the previous three years at the rate of 50%, 25%, and 12.5%, respectively, of that mineralized during the first year.

Section 900.809 Records of Waste Disposal

Records of the livestock waste disposal shall include the following items:

a) Date of livestock waste application;

b) The field where livestock waste application was made;

c) Method of livestock waste application;

d) Livestock waste application rate;

e) Number of acres receiving waste; and

f) Amount of livestock waste applied.

Section 900.810 Approval of Waste Management Plans

a) Department approval of livestock waste management plans shall be based on the following criteria:
   1) Livestock waste application rate of nitrogen not to exceed the crop nitrogen requirements for targeted crop yield goals;
   2) Demonstration of adequate land area for livestock waste application based on Section 900.803 of this Part; and
   3) Completeness and accuracy of plan contents as specified in Section 900.803 of this Part.

b) The owner or operator of the livestock management facility shall be notified by the Department within 30 working days after receipt of the livestock waste management plan that the plan has been approved or that further information or changes are needed. The owner or operator shall provide the information or changes within 30 working days.

Section 900.811 Sludge Removal

a) Within 60 days prior to periodic removal of sludge from a livestock waste storage structure, the livestock facility owner or operator shall test the sludge for nutrient content. Application of the sludge to the land shall not exceed the nitrogen requirement to obtain targeted yields of the crop to be grown for fields with soil phosphorus test results of 300 pounds or less of elemental phosphorus

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per acre pursuant to Section 900.813(a) of this Subpart. Application of the sludge shall be at a rate not to exceed the phosphorus rate on fields with soil phosphorus test results of greater than 300 pounds of elemental phosphorus per acre pursuant to Section 900.813(b) and (c)(3) of this Subpart.

b) Prior to the removal of the remaining livestock waste, soil, and sludge during a lagoon closure, the waste, soil, and sludge shall be tested for nutrient content. Application of the waste, soil, and sludge to the land shall not exceed the nitrogen requirement to obtain targeted yields of the crop to be grown for fields with soil phosphorus test results of 300 pounds or less of elemental phosphorus per acre pursuant to Section 900.813(a) of this Subpart. Application of the waste, soil, and sludge shall be at a rate not to exceed the phosphorus rate on fields with soil phosphorus test results of greater than 300 pounds of elemental phosphorus per acre pursuant to Section 900.813(b) and (c)(3) of this Subpart.

c) Nitrogen requirements based on targeted yields for the crop to be grown may be met but shall not be exceeded by any combination of the following:
   1) Livestock waste applications;
   2) Periodic sludge applications; or
   3) Remaining livestock waste, soil, or sludge applications during a waste storage structure closure.

Section 900.812 Soil Phosphorus Testing

Soil samples shall be obtained and analyzed from the livestock waste application fields on land owned or under the control of the owner or operator where applications are planned. Fields where livestock waste is applied shall be sampled every 3 years. Sampling procedures, such as the number of samples and the depth of sampling, as outlined in the current edition of the Illinois Agronomy Handbook shall be followed when soil samples are obtained. [510 ILCS 77/20(f)(3.5) For the purposes of this Subpart, "land owned or under the control of" means livestock waste application fields which are owned, rented, or leased by the owner or operator of the livestock management facility or livestock waste handling facility, or those fields that are the subject of a livestock waste application agreement between the facility owner or operator and the land owner.

Section 900.813 Phosphorus Based Application

a) If the average Bray Pl or Mehlich test result for soil phosphorus calculated from samples obtained from the application field is 300 pounds or less of elemental phosphorus per acre, livestock waste may continue to be applied to that field in accordance with subsection (f) of Section 20 of the Livestock Management Facilities Act [510 ILCS 77/20(f)] and this Subpart. [510 ILCS 77/20(f)(3.6)]

b) If the average Bray Pl or Mehlich test result for soil phosphorus for

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an application field is greater than 300 pounds of elemental phosphorus per acre, the owner or operator shall apply livestock waste at a rate not to exceed the phosphorus rate to the field, if livestock waste application to the field is to continue, until the average Bray Pl or Mehlich test for soil phosphorus indicates there is less than 300 pounds of elemental phosphorus per acre. [510 ILCS 77/20(f)(3.6)]

c) If a phosphorus application rate is required for a field, the plan shall be amended by the owner or operator for that field to determine the maximum livestock waste application rate. The amendment to the plan for that field shall contain the following:
   1) The phosphorus content of the livestock waste, expressed as P[2]O[5], derived from MidWest Plan Service's MWPS-18, Livestock Waste Facilities Handbook (Table 2-1, 10-6, or 10-7), 35 Ill. Adm. Code 560 (Table 1 or Table 2), or the results of analysis performed on samples of waste;
   2) The targeted crop yield goal of each crop in the field, obtained pursuant to Section 900.807 of this Subpart;
   3) The phosphorus maintenance fertilizer amount, expressed as P[2]O[5] for the targeted crop yield goal of each planned crop, obtained from the current edition of the Illinois Agronomy Handbook; and
   4) The maximum livestock waste application rate, calculated from the items in this subsection (c), for each planned crop.

Section 900.814 Plan Updates

a) The waste management plan shall be reviewed annually by the livestock facility owner or operator and updated when there is a change in the volume of livestock waste to be disposed of annually, calculated pursuant to Section 900.804 of this Subpart, that will cause additional application land not already included in the plan to be needed.

b) The waste management plan shall also be updated when at least one of the following occurs:
   1) The average Bray Pl or Mehlich test result for soil phosphorus for an application field is greater than 300 pounds of elemental phosphorus per acre, in which case a separate plan for that field shall be prepared pursuant to Section 900.813 of this Subpart if application to that field is to continue;
   2) A change in land that is available for livestock waste application occurs, if the land is not currently included in the waste management plan;
   3) A change in the method of livestock waste disposal or application occurs; or
   4) A change in the crop to be grown on the application field occurs, if the crop is not already included in the plan.

Section 900.815 Penalties

a) Any person who is required to prepare, maintain, and implement a waste management plan and who fails to do so shall be issued a warning letter by the Department for the first violation and shall be given 30 working days to prepare a waste management plan. For failure to prepare, maintain, and implement a waste management plan, the person shall be fined an administrative penalty of up to $1,000 by the Department and shall be required to enter into an agreement of compliance to prepare, maintain, and implement a waste management plan within 30 working days. For failure to prepare, maintain, and implement a waste management plan after the second 30 day period or for failure to enter into a compliance agreement, the Department may issue an operational cease and desist order until compliance is attained. [510 ILCS 77/20(g)]

b) The operational cease and desist order procedures may be suspended by the Department upon submittal of a waste management plan by the owner or operator to the Department. The cease and desist order shall be canceled by the Department upon approval of the waste management plan by the Department.

c) A waste management plan prepared as a result of a warning letter or compliance agreement shall be subject to approval by the Department.

d) Penalties shall not be imposed for excessive nitrogen application for unplanned cropping changes due to weather or other unforeseeable circumstances.

Section 900.816 Odor Control

a) Operators of livestock waste handling facilities shall practice odor control methods during the course of manure removal and field application. Odor control methods shall be those methods identified in the rules adopted pursuant to the Illinois Environmental Protection Act concerning agriculture related pollution as set forth in 35 Ill. Adm. Code 501.405(b). [510 ILCS 77/25(a)]

b) Upon the occurrence of a violation of this Section, the following procedures shall be followed:

1) For a first violation of this Section by the owner or operator of a livestock management facility or livestock waste handling facility, the Department shall send the owner or operator a written notice of the violation by certified mail, return receipt requested.

2) If after an administrative hearing the Department finds that the owner or operator of a livestock management facility or livestock waste handling facility has committed a second violation of this Section, the Department shall impose on the owner or operator a civil administrative penalty in an amount not exceeding $1,000. The Attorney General may bring an action in the circuit court to enforce the collection of a penalty imposed under this Section.

3) If after an administrative hearing the Department finds that the owner or operator of a livestock management facility or livestock waste handling facility has committed a third violation of this Section, the Department shall enter an administrative order directing that the owner or operator cease operation of the facility until the violation is corrected.

4) If a livestock management facility or livestock waste handling facility has not committed a violation of this Section within the 5 years immediately preceding a violation, the violation shall be construed and treated as a first violation. [510 ILCS 77/25(d)]

SUBPART I: CERTIFIED LIVESTOCK MANAGER

Section 900.901 Applicability

a) A livestock waste handling facility serving 300 or greater animal units shall be operated only under the supervision of a certified livestock manager. Notwithstanding this requirement, a livestock waste handling facility may be operated on an interim basis, but not to exceed 6 months, to allow for the owner or operator of the facility to become certified. [510 ILCS 77/30(a)] For the purposes of this Subpart, being operated under the supervision of a certified livestock manager shall mean that the certified livestock manager shall be immediately available to the workers at a livestock waste handling facility either in person or via telecommunications and shall have the ability to be physically present at the livestock waste handling facility within one hour after notification.

b) Persons may become certified livestock managers by demonstrating an understanding of and competence for the operation of livestock waste handling facilities as established in Section 30 of the Livestock Management Facilities Act [510 ILCS 77/30] and further described in this Subpart. Livestock managers shall establish or re-establish certification when required to do so in accordance with Section 30 of the Livestock Management Facilities Act.

c) A livestock manager certified pursuant to the emergency amendment adopted in R97-14 at 20 Ill. Reg. 14903, effective October 31, 1996 and the emergency rules adopted in R97-14 at 21 Ill. Reg. 4313, effective March 31, 1997, shall be considered as certified pursuant to this Subpart.

d) For the purposes of this Subpart, the number of animal units served by a livestock waste handling facility is the maximum design capacity of the livestock management facility which is being served by the livestock waste handling facility.

e) Any certification shall be valid for 3 years and thereafter subject to renewal. A renewal shall be valid for a 3 year period and the procedures set forth in Section 30 of the Livestock Management Facilities Act shall be followed. The Department may require anyone who is certified to be recertified in less than 3 years for just cause including but not limited to repeated complaints where investigations reveal the need to improve management practices. [510 ILCS 77/30(c)]

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Examples include, but are not limited to, lagoon maintenance violations, improper waste handling practices, waste management plan violations, other violations of the Livestock Management Facilities Act or rules promulgated thereunder, or violations of other Acts related to livestock management practices including the Dead Animal Disposal Act [225 ILCS 610].

f) The following methods shall be utilized by an owner or operator to become certified:

1) The owner or operator of a livestock waste handling facility serving 300 or greater animal units but less than 1,000 animal units shall become a certified livestock manager by:

A) Attending a training session conducted by the Department, Cooperative Extension Service, or any agriculture association that has been approved by or is in cooperation with the Department; or

B) In lieu of attendance at a training session, successfully completing a written competency examination.

2) The owner or operator of a livestock waste handling facility serving 1,000 or greater animal units shall become a certified livestock manager by attending a training session conducted by the Department, Cooperative Extension Service, or any agriculture association that has been approved by or is in cooperation with the Department; and successfully completing a written competency examination. [510 ILCS 77/ 30(d)]

g) The Department shall charge $10 for the issuance or renewal of a certified livestock manager certificate. [510 ILCS 77/30(f)]

h) For violations pertaining to the certified livestock manager requirements, the owner or operator shall be issued a warning letter for the first violation and shall be required to have a certified manager for the livestock waste handling facility within 30 working days. For failure to comply with the warning letter within the 30 day period, the person shall be fined an administrative penalty of up to $1,000 by the Department and shall be required to enter into an agreement to have a certified manager for the livestock waste handling facility within 30 working days. For continued failure to comply, the Department may issue an operational cease and desist order until compliance is attained. [510 ILCS 77/30(g)] The cease and desist order shall be canceled by the Department upon presentation to the Department of a valid certified livestock manager certificate issued in the name of the owner, operator, or current employee of the livestock facility.

Section 900.APPENDIX A Surety Instruments

Section 900.ILLUSTRATION A Surety Bond

SURETY BOND

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Date bond executed: _____

Effective date: _____

Principal: _____

Type of organization: _____

State of incorporation: _____

Surety: _____

Sites: _____

Name: _____

Address: _____

City: _____

Amount guaranteed by this bond: $_____

Name: _____

Address: _____

City: _____

Amount guaranteed by this bond: $_____

Please attach a separate page if more space is needed for all sites.

Total penal sum of bond $_____

Surety's bond number: _____

The Principal and the Surety promise to pay the Illinois Department of Agriculture ("Department") the above penal sum unless the Principal provides closure for each site in accordance with 510 ILCS 77/15(e) and 35 Ill. Adm. Code 900.608. To the payment of this obligation the Principal and Surety jointly and severally bind themselves, their heirs, executors, administrators, successors and assigns.

Whereas the Principal is required, under Section 15(b) of the Livestock Management Facilities Act ("LMFA") to register at least one livestock waste lagoon with the Department; and

Whereas the Principal is required, under Section 17 of the LMFA to evidence

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financial responsibility for closure of each registered lagoon; and

Whereas the Surety is licensed by the Illinois Department of Insurance; and

Whereas the Principal and Surety agree that this bond shall be governed by the laws of the State of Illinois; The Surety shall pay the penal sum to the Department if, during the term of the bond, the Department issues a notice of liability to the Surety.

The Surety shall pay the penal sum of the bond to the Department within 30 days after the Department mails the notice of liability to the Surety unless the Surety assumes responsibility to provide closure and so notifies the Department. Payment shall be made by deposit of funds into a designated account upon which the Department is authorized to draw.

The liability of the Surety shall not be discharged by any payment or succession of payments unless and until such payment or payments shall amount in the aggregate to the penal sum of the bond. In no event shall the obligation of the Surety exceed the amount of the penal sum. If the Surety assumes responsibility to provide closure, expenditures made by the Surety for that purpose may exceed the amount of the penal sum, but the amount of the Surety's obligation under this bond is not affected.

This bond shall expire on the _____ day of _____, ____.

The Principal may terminate this bond by sending written notice to the Surety; provided, however, that no such notice shall become effective until the Surety receives written authorization for termination of the bond from the Department.

In Witness Whereof, the Principal and Surety have executed this Surety Bond and have affixed their seals on the date set forth above. The persons whose signatures appear below certify that they are authorized to execute this surety bond on behalf of the Principal and Surety.

PRINCIPAL

Signature Name _____

Typed Name _____

Address _____

Title _____

State of Incorporation _____

Date _____

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Corporate seal

CORPORATE SURETY

Signature _____

Typed Name _____

Title _____

Corporate seal

Bond premium: $_____

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Section 900.ILLUSTRATION B Irrevocable Standby Letter of Credit

IRREVOCABLE STANDBY LETTER OF CREDIT

Director
Illinois Department of Agriculture
P.O. Box 19281
Springfield, IL 62794-9281

Dear Sir or Madam:

We have authority to issue letters of credit. Our letter-of-credit operations are regulated by the Illinois Commissioner of Banks and Real Estate or our deposits are insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation. (Omit language that does not apply.)

We hereby establish our Irrevocable Standby Letter of Credit No. _____ in your favor, at the request and for the account of _____up to the aggregate amount of _____ U.S. dollars ($_____), available upon presentation of:

1. your sight draft, bearing reference to this letter of credit No._____; and
2. your signed statement reading as follows: "I certify that the amount of the draft is payable pursuant to regulations issued under authority of the Livestock Management Facilities Act [510 ILCS 77] and 35 Ill. Adm. Code 900.706(a) or (c)."

This letter of credit is effective as of _____ and shall expire on _____.

Whenever this letter of credit is drawn on, under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us, and we shall deposit the amount of draft directly into a designated account in accordance with your instructions.

This letter of credit is governed by the Uniform Commercial Code [810 ILCS 5].

Signature _____

Typed Name _____

Title _____

Date _____

Name and address of issuing institution _____

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This credit is subject to _____

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1) Heading of the Part: Audits, Reviews, and Investigations

2) Code Citation: 89 Ill. Adm. Code 434

3) Section Numbers: 434.7 — Proposed Action: Amend

4) Statutory Authority: 20 ILCS 505; 30 ILCS 10

5) A Complete Description of the Subjects and Issues Involved: The Department is rescinding the provision which exempted group homes, institutions, independent living, homemakers, Medicaid and unmarried mothers services from the recapture of excess revenues associated with those services. Starting with State Fiscal year 2000 all services will be subject to excess revenue recapture provisions.

6) Will these proposed rules replace an emergency rule currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? No

9) Are there any proposed amendments to this Part pending? No

10) Statement of Statewide Policy Objectives: These rules do not create or expand a state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3].

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

Susan Howell
Department of Children and Family Services
406 East Monroe, Station # 65
Springfield, Illinois 62701-1498
Telephone: (217) 524-1983
TTY: (217) 524-3715
E-mail: CFPolicy@idcfs.state.il.us

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such.

12) Initial Regulatory Flexibility Analysis:

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A) Types of small businesses affected: Providers of group home, institution, independent living, homemaker, Medicaid, and unmarried mothers services.

B) Reporting, bookkeeping or other procedures required for compliance: It is necessary that small businesses identified above have reporting and bookkeeping requirements for identifying excess revenues.

C) Types of professional skills necessary for compliance: Adequate bookkeeping skills to identify excess revenues are required.

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: The Department did not anticipate the need for this rulemaking.

The full text of the proposed amendment appears on the next page.

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TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER f: GENERAL ADMINISTRATION

PART 434
AUDITS, REVIEWS, AND INVESTIGATIONS

Section

AUTHORITY: Implementing and authorized by Section 4 of the Children and Family Services Act [20 ILCS 505/4] and the Fiscal Control and Internal Auditing Act [30 ILCS 10].

SOURCE: Adopted and codified at 5 Ill. Reg. 8634, effective September 1, 1981; amended at 8 Ill. Reg. 133, effective December 30, 1983; amended at 18 Ill. Reg. 6697, effective May 1, 1994; emergency amendment at 18 Ill. Reg. 8944, effective June 3, 1994, for a maximum of 150 days; emergency expired on October 31, 1994; amended at 19 Ill. Reg. 2760, effective February 27, 1995; amended at 21 Ill. Reg. 15469, effective December 1, 1997; amended at 24 Ill. Reg. _____, effective _____.

Section 434.7 Certified Audits, Cost Reports and Desk Reviews

a) The Department's requirements for providers include the annual filing of a cost report (for all providers in accordance with 89 Ill. Adm. Code 357) and a certified audit of entities who receive annual payments in excess of $50,000 in any one contract year. The certified audit for all entities must be completed and submitted within 180 calendar days after the completion of their fiscal year as required by Purchase of Service (89 Ill. Adm. Code 357.11(f)). All Governmental and not-for-profit entities must complete audits in accordance with OMB Circulars A-128 or A-133, whichever is applicable.

b) The certified audit and related cost reports are to be reviewed by the Internal Auditors and, when appropriate, a report on the certified audit or cost reports will be issued to Department officials who are

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responsible for the contract(s). The general objectives of the desk review and report shall determine whether:

1) financial and service unit information is appropriately presented and is consistent with the generally accepted accounting principles;
2) costs incurred in operating the contracted service are not less than the revenues received directly for the program;
3) related party transactions are appropriately recorded and disclosed;
4) significant accounting practices and other information which require disclosure (as described by generally accepted accounting principles) are disclosed appropriately; and
5) funds were used in accordance with Department policy and whether the entity has received monies in excess of actual reimbursable costs.

c) The Office of Internal Audits is responsible for answering all questions regarding the preparation of a certified audit. If the Department has not received the certified audit by the deadline of 180 calendar days after the completion of the entity's fiscal year, the Office of Internal Audits will notify the entity of the delinquency and send a copy of the notice to Department regional administrative staff.

d) All certified audits are logged in upon receipt by the Office of Internal Audits and an audit digest (summary of findings) is prepared for each audit received. If the audit does not contain adequate information, the Office of Internal Audits will send a letter to the entity to request additional information. If the certified audit does not meet the standards set out in subsection (a) of this Section, the entity will be given 30 business days to submit a new certified audit.

e) The Office of Internal Audits will prepare a desk review report which will highlight any deficiencies that are found in the audit and will contain specific recommendations for procedural changes in the preparation of certified audits. The completed desk review report will be sent directly to the entity, with a copy to appropriate Department regional staff.

f) Department regional staff are responsible for reviewing the recommendations contained in the desk review report and providing assistance as necessary to the entity in follow-up on the recommendations made. The desk review report may contain recommendations for contract or budget revisions which must be acted upon by the regional staff.

g) The desk review report may contain recommendations which require an additional response from the entity before the certified audit is accepted. The entity's response and concurrence with the recommendations of the desk review report will close the desk review process.

h) During State fiscal years 1995 through 1999, for entities where When the rates for group homes, institutions, independent living,

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

homemakers, Medicaid and unmarried mothers services were ~~are~~ set by audited costs, the entity was ~~is~~ exempt from recapture of any excess revenues associated with these services. The total amount of excess revenues identified during FY 1981-FY 1994 must be recorded as a liability on the entity's financial statements and may be retained by the entity until the specified program type is no longer in effect. If, beginning with State fiscal year 1995 and in any subsequent years, payments from the Department exceed expenses attributable for a specified program type, any excess revenues which are identified will be recaptured during the following fiscal year contract period. Starting with State fiscal year 2000 all services shall be subject to excess revenue recapture provisions.

i) Waiver of the certified audit requirement must be requested in writing and directed to the Department's Chief Auditor. The request should state the reason for the waiver request. A request for an extension of the deadline for submittal of the audit beyond the time specified in the contract must also be submitted in writing to the Chief Auditor. The Department's Chief Auditor will respond to requests for waivers or extensions within thirty business days, specifying approval or rejection of the waiver.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

ILLINOIS DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED REPEALER

1) Heading of the Part: Department Purchasing Procedures

2) Code Citation: 44 Ill. Adm. Code 760

3)

Section Numbers:	Adopted Action:
760.10	Repealed
760.20	Repealed
760.30	Repealed
760.40	Repealed
760.50	Repealed
760.60	Repealed
760.70	Repealed
Appendix A	Repealed

4) Statutory Authority: Implementing the Standard Procurement Rules (44 Ill. Adm. Code 1) and authorized by the Illinois Procurement Code [300 ILCS 500].

5) Effective Date of Repealer: November 30, 1999

6) Does the rulemaking contain an automatic repeal date? No

7) Does this rule contain incorporations by reference? No

8) A copy of the adopted repealer, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: August 13, 1999; 23 Ill. Reg. 8882.

10) Has JCAR issued a Statement of Objection to this repealer? No

11) Differences between proposal and final version: The adopted repealer is identical to that which was published in the *Illinois Register*.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? The adopted repealer is identical to that which was published in the *Illinois Register*. No agreements were necessary.

13) Will this repealer replace an emergency repealer currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Repealer: The repealer concerns rules that have been superseded by the Standard Procurement Act and the Illinois Procurement Code.

ILLINOIS DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED REPEALER

16) Information and questions regarding this adopted repealer shall be directed to:

David T. Rothal
Illinois Department of Human Rights,
100 W. Randolph Street, Ste. 10-100
Chicago, IL 60601
312-814-6242

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Eligibility

2) Code Citation: 89 Ill. Adm. Code 682

3) Section Numbers: Adopted Action:
682.200 Amended

4) Statutory Authority: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].

5) Effective Date of Rulemaking: December 6, 1999

6) Does this rulemaking contain an automatic repeal date? No

7) Does this amendment contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: August 20, 1999, 23 Ill. Reg. 9623

10) Has JCAR Issued a Statement of Objection to this rulemaking? No

11) Differences between proposal and final version: None

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this amendment replace an emergency amendment currently in effect? No

14) Are there any amendments pending on this Part: No

15) Summary and Purpose of Amendments: This rulemaking amends the section on spousal assets to remove the minimum DON score of 75 points from the rule. This change will allow a spouse of a person receiving Home Services to protect a specified value of the assets of the couple.

16) Information and questions regarding this adopted amendment shall be directed to:

Ms. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East (217)785-9772
3rd Floor, Harris Bldg.
Springfield, Illinois 62762

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

The full text of adopted amendments begins on the next page:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER d: HOME SERVICES PROGRAM

PART 682
ELIGIBILITY

SUBPART A: GENERAL APPLICABILITY

SUBPART B: NON-FINANCIAL ELIGIBILITY CRITERIA

SUBPART C: FINANCIAL ELIGIBILITY CRITERIA

SUBPART D: EFFECT OF OTHER SERVICES ON HSP

SUBPART E: REDETERMINATION OF ELIGIBILITY

SUBPART F: GRANDFATHERING PROVISIONS

AUTHORITY: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

SOURCE: Adopted at 19 Ill. Reg. 5070, effective March 21, 1995; amended at 20 Ill. Reg. 6307, effective April 18, 1996; amended at 20 Ill. Reg. 15749, effective December 3, 1996; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; amended at 22 Ill. Reg. 2226, effective January 12, 1998; amended at 23 Ill. Reg. 3981, effective March 19, 1999; amended at 23 Ill. Reg. 14450, effective DEC - 6 1999.

SUBPART C: FINANCIAL ELIGIBILITY CRITERIA

Section 682.200 Assets Limitation

a) Adult customers, age 18 years or above, may have no more than $10,000 in customer-only non-exempt assets in order to receive services through HSP.

b) Minor customers, those under 18 years, may have no more than $30,000 in total family non-exempt assets. In order to determine total family assets, the customer and all other individuals who contribute to the family unit, or rely on the family unit for support, shall be counted.

c) A married customer, ~~with a total DON score of 75 points or more, and~~ whose spouse does not receive HSP services and is not institutionalized, shall not own interest in non-exempt assets having a total value in excess of $10,000. Non-exempt assets having a value over this figure and up to the amount allowed by the Community Spouse Asset Allowance, as adopted by the Illinois Department of Public Aid at 89 Ill. Adm. Code 120.379(d), must be transferred to, or for the sole benefit of, the community spouse. If the customer's assets exceed the asset disregard and prevention of spousal impoverishment amount, but the excess is less than $10,000, the customer is eligible for HSP services. If the excess is greater than $10,000, the individual is ineligible for services. Customers who may be qualified for the spousal impoverishment exception may receive Interim Services while the Department of Public Aid determines the eligibility factor.

(Source: Amended at 23 Ill. Reg. 14450, effective DEC - 6 1999)

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: General Provisions For Radiation Protection

2) Code Citation: 32 Ill. Adm. Code 310

3)

Section Number:	Adopted Action:
310.15	Amendment
310.20	Amendment
310.50	Amendment
310.74	New Section
310.80	Amendment
310.81	Amendment
310.82	Amendment
310.90	Amendment
310.140	Amendment

4) Statutory Authority: Implementing and authorized by the Radiation Protection Act of 1990 [420 ILCS 40].

5) Effective Date of Amendments: January 1, 2000

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? Yes

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in the Illinois Register:

August 20, 1999 (23 Ill. Reg. 9627)

10) Has JCAR issued a Statement of Objections to these Amendments? No

11) Differences between proposal and final version:

a) In Section 310.20, reinsert subsection labels.

b) In Section 310.20, reinsert subsection labels.

c) In Section 310.20, change "optically stimulated dosimeters" to "optically stimulated luminescence dosimeters".

d) In Section 310.20, delete "1998" and reinsert "1994".

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? No agreement letter was issued by JCAR regarding this rulemaking.

DEPARTMENT OF NUCLEAR SAFETY

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13) Will these amendments replace an emergency amendment currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendment: This amendment will: (1) change the title of the Part to implement the agreement between the Department, the Joint Committee on Administrative Rules and the Secretary of State's Office; (2) add several definitions; (3) reference statutory changes regarding criminal penalties; (4) add a cost recovery Section to the rule to implement provisions of the Radiation Protection Act of 1990; and (5) update cross-references and make minor editorial changes so that the style of this rule is consistent with other Department rules.

16) Information and questions regarding these adopted amendments shall be directed to:

Robert B. Holtsclaw
Senior Staff Attorney
Department of Nuclear Safety
1035 Outer Park Drive
Springfield, Illinois 62704
217 524-1003 (voice)
217 782-6133 (TDD)

The full text of the adopted amendments begins on the next page:

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF ADOPTED AMENDMENTS

TITLE 32: ENERGY
CHAPTER II: DEPARTMENT OF NUCLEAR SAFETY
SUBCHAPTER b: RADIATION PROTECTION

PART 310
GENERAL PROVISIONS FOR RADIATION PROTECTION

Section
310.10 Scope
310.15 Incorporations by Reference
310.20 Definitions
310.30 Exemptions
310.40 Records
310.50 Inspections
310.60 Tests
310.70 Additional Requirements
310.74 Cost Assessment
310.75 Emergency Response Cost Recovery
310.80 Violations
310.81 Policy for Assessment of Civil Penalties
310.82 Procedures for Assessment of Civil Penalties
310.90 Impounding
310.100 Prohibited Uses
310.110 Communications
310.120 Plans and Specifications
310.130 The International System of Units (SI) (Repealed)
310.140 Units of Exposure and Radiation Dose
310.150 Units of Activity
APPENDIX A Transport Grouping of Radionuclides (Repealed)
APPENDIX B Tests for Special Form Licensed Material (Repealed)
APPENDIX C Penalty Assessment Worksheet (Repealed)

AUTHORITY: Implementing and authorized by the Radiation Protection Act of 1990 [420 ILCS 40].

SOURCE: Filed April 20, 1974 by the Department of Public Health; transferred to the Department of Nuclear Safety by P.A. 81-1516, effective December 3, 1980; codified at 7 Ill. Reg. 15657; amended at 10 Ill. Reg. 17259, effective September 25, 1986; amended at 15 Ill. Reg. 10604, effective July 15, 1991; amended at 17 Ill. Reg. 18472, effective January 1, 1994; amended at 20 Ill. Reg. 15978, effective December 9, 1996; amended at 23 Ill. Reg. 14454, effective JAN - 1 2000.

NOTE: In this Part, unless the context clearly indicates otherwise, superscript numbers or letters are denoted by parentheses, subscript are denoted by brackets.

Section 310.15 Incorporations by Reference

DEPARTMENT OF NUCLEAR SAFETY

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All rules, standards and guidelines of agencies of the United States or nationally recognized organizations or associations that are incorporated by reference in this Part are incorporated as of the date specified in the reference and do not include any later amendments or editions. Copies of these rules, standards and guidelines that have been incorporated by reference are available for public inspection at the Department of Nuclear Safety, 1035 Outer Park Drive, Springfield, Illinois.

~~AGENCY--NOTE:--In--this--Part,-the-Department-has-incorporated-by-reference-the appendices-to-10-CFR-20,-effective-as-of-January--1,--1994.---These--appendices were--originally--published-at-56-FR-23360---23474-(May-21,-1991).--Corrections were-published-at-56-FR-61352---61353-(December-3,-1991)-and-an--amendment--was published--at--57--FR--57877-----57879--(December--8,-1992).--The-incorporation includes-the-1991-correction-and-the-1992-amendment.~~

(Source: Amended at 23 Ill. Reg. 14454, effective JAN - 1 2000)

Section 310.20 Definitions

As used in 32 Ill. Adm. Code: Chapter II, Subchapters b and d ~~310,-320,-330, 331,-332,-335,-340,-341,-350,-351,-400,-401,-601-and-606~~, these terms have the definitions set forth below. Additional definitions used only in a certain Part will be found in that Part.

"Absorbed dose" means the energy imparted by ionizing radiation per unit mass of irradiated material. The units of absorbed dose are the gray (Gy) and the rad.

"Accelerator" (particle accelerator) means any machine capable of accelerating electrons, protons, deuterons or other charged particles in a vacuum and of discharging the resultant particulate or other radiation into a medium at energies usually in excess of 1 million electron volts (MeV).

"Accelerator-produced material" means any material made radioactive by a particle accelerator.

"Act" means the Radiation Protection Act of 1990 (the Act) ~~(Ill.--Rev. Stat.--1991,--ch.--111-1/2,-par.-210-1-et-seq.,-including-P.A.-87-1024 and-87-1166)~~ [420 ILCS 40~~including-P.A.-87-1024,--effective--September 6,-1992-and-P.A.-87-1166,-effective-September-18,-1992~~].

"Activity" means the rate of disintegration (transformation) or decay of radioactive material. The units of activity are the becquerel (Bq) and the curie (Ci).

"Adult" means an individual 18 or more years of age.

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"Agreement State" means any state with which the U. S. Nuclear Regulatory Commission or the U.S. Atomic Energy Commission has entered into an effective agreement under subsection 274b of the Atomic Energy Act of 1954, as amended (42 USC ~~U.S.C.~~ 2021(b) et seq.).

"Airborne radioactive material" means any radioactive material dispersed in the air in the form of dusts, fumes, particulates, mists, vapors or gases.

"Airborne radioactivity area" means any room, enclosure, or operating area in which airborne radioactive material, composed wholly or partly of licensed material, exists in concentrations:

in excess of the derived air concentrations (DACs) specified in Appendix B to 10 CFR 20.1001 - 20.2401, effective January 1, 1998 ~~1994~~, exclusive of subsequent amendments or editions; or

to such a degree that an individual present in the area without respiratory protective equipment could exceed, during the hours an individual is present in a week, an intake of 0.6 percent of the annual limit on intake (ALI) or 12 DAC-hours.

"As low as is reasonably achievable" (ALARA) means making every reasonable effort to maintain exposures to radiation as far below the dose limits in 32 Ill. Adm. Code: Chapter II, Subchapters b and d as is practical consistent with the purpose for which the licensed or registered activity is undertaken, taking into account the state of technology, the economics of improvements in relation to the state of technology, the economics of improvements in relation to benefits to the public health and safety and other societal and socioeconomic considerations, and in relation to utilization of nuclear energy and licensed or registered sources of radiation in the public interest.

"Background radiation" means radiation from cosmic sources; naturally occurring radioactive materials, including radon (except as a decay product of source or special nuclear material) and global fallout as it exists in the environment from the testing of nuclear explosive devices. Background radiation does not include radiation from radioactive materials regulated by the Department.

"Becquerel" (Bq) means the SI unit of activity. One becquerel (Bq) is equal to 1 disintegration (transformation) per second (dps or tps).

"Bioassay" (radiobioassay) means the determination of kinds, quantities or concentrations and, in some cases, the locations of radioactive material in the human body, whether by direct measurement (in vivo counting) or by analysis and evaluation of materials excreted or removed from the human body.

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"Brachytherapy" means a method of radiation therapy in which sealed sources are used to deliver a radiation dose at a distance of less than 6 centimeters, by surface, intracavitory or interstitial application.

"Byproduct material" means: *(1) any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to radiation incident to the process of producing or utilizing special nuclear material; and (2) the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content, including discrete surface wastes resulting from underground solution extraction processes but not including underground ore bodies depleted by such solution extraction processes.* [420 ILCS 40/4(a-5)] ~~{See Section 4(a) of the Act.}~~

"Calendar quarter" means not less than 12 consecutive weeks nor more than 14 consecutive weeks. The first calendar quarter of each year shall begin in January and subsequent calendar quarters shall be so arranged such that no day is included in more than one calendar quarter and no day in any one year is omitted from inclusion within a calendar quarter. No licensee or registrant shall change the method observed by him for determining calendar quarters except at the beginning of a year.

"Calibration" means the determination of:

the response or reading of an instrument relative to a series of known radiation values over the range of the instrument; or

the strength of a source of radiation relative to a standard.

"CFR" means Code of Federal Regulations.

"Chelating Agent" means amine polycarboxylic acids (e.g., EDTA, DTPA), hydroxy-carboxylic acids, and polycarboxylic acids (e.g., citric acid, carbolic acid, and glucinic acid).

"Collective dose" means the sum of the individual doses received in a given period of time by a specified population from exposure to a specified source of radiation.

"Committed dose equivalent" (H[T,50]) means the dose equivalent to organs or tissues of reference (T) that will be received from an intake of radioactive material by an individual during the 50-year period following the intake.

"Committed effective dose equivalent" (H[E,50]) means the sum of the

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products of the weighting factors applicable to each of the body organs or tissues that are irradiated and the committed dose equivalent to each of these organs or tissues (H[E,50] = SUM w[T]H[T,50]).

"Curie" means a unit of quantity of radioactivity. One Curie (Ci) is that quantity of radioactive material which decays at the rate of 3.7 X 10(10) disintegrations (transformations) per second (dps or tps).

"Declared pregnant woman" means any woman who has voluntarily informed her employer, in writing, of her pregnancy.

"Deep dose equivalent" (H[d]) means the dose equivalent at a tissue depth of 1 centimeter (1000 milligrams per square centimeter) from external whole-body exposure.

"Densitometer" means a device that is used to provide a quantitative measurement of the optical density of x-ray film to determine the response of the film to exposure and development.

"Department" means Illinois Department of Nuclear Safety.

"Depleted uranium" means the source material uranium in which the isotope uranium-235 is less than 0.711 weight percent of the total uranium present. Depleted uranium does not include special nuclear material.

"Director" *means the Director of the Department of Nuclear Safety.* [420 ILCS 40/4(c)] ~~{See Section 4(c) of the Act.}~~

"Dose" (radiation dose) means either absorbed dose, dose equivalent, effective dose equivalent, committed dose equivalent, committed effective dose equivalent, total organ dose equivalent or total effective dose equivalent.

"Dose equivalent" (H[T]) means the product of the absorbed dose in tissue, quality factor and all other necessary modifying factors (e.g., a distribution factor for non-uniform deposition) at the location of interest. The units of dose equivalent are the sievert (Sv) and the rem.

"Dose limits" (limits) means the permissible upper bounds of radiation doses established by, or in accordance with, 32 Ill. Adm. Code: Chapter II, Subchapters b and d.

"Dosimetry processor" means an individual or an organization that processes and evaluates individual monitoring devices in order to determine the radiation dose delivered to such devices.

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"Effective dose equivalent" (H[E]) means the sum of the products of the dose equivalent to each organ or tissue (H[T]) and the weighting factor (W[T]) applicable to each of the body organs or tissues that are irradiated (H[E] = SUMw[T]H[T]).

"Embryo/fetus" means the developing human organism from conception until the time of birth.

"Entrance or access point" means any opening through which an individual or extremity of an individual could gain access to radiation areas or to licensed radioactive materials. This includes entry or exit portals of sufficient size to permit human entry, irrespective of their intended use.

"Exposure" means:

the quotient of dQ divided by dm where "dQ" is the absolute value of the total charge of the ions of one sign produced in air when all the electrons (negatrons and positrons) liberated by photons in a volume element of air having mass "dm" are completely stopped in air. (See Section 310.140 of this Part for SI unit coulomb per kilogram (C/kg) and the special unit roentgen (R).); or

irradiation by ionizing radiation or radioactive material.
AGENCY NOTE: The context makes clear which is the appropriate definition.

"Exposure rate" means the "exposure" per unit of time, such as roentgen per minute (R/min) and milliroentgen per hour (mR/h).

"External dose" means that portion of the dose equivalent received from any source of radiation outside the body.

"Extremity" means a hand, elbow, arm below the elbow, foot, knee and leg below the knee.

"Eye dose equivalent" or "lens dose equivalent" means the external dose equivalent to the lens of the eye at a tissue depth of 0.3 centimeter (300 milligrams per square centimeter).

"Former U.S. Atomic Energy Commission (AEC) or U.S. Nuclear Regulatory Commission (NRC) licensed facilities" means nuclear reactors, nuclear fuel reprocessing plants, uranium enrichment plants, or critical mass experimental facilities where AEC or NRC licenses have been terminated.

"Gray" (Gy) means the SI unit of absorbed dose. One gray is equal to

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an absorbed dose of 1 joule per kilogram (J/kg)(100 rad).

"Healing Arts" means the art or science or group of arts or sciences dealing with the prevention and cure or alleviation of human ailments, diseases or infirmities, and has the same meaning as "medicine" when the latter term is used in its comprehensive sense.

"High radiation area" means any area, accessible to individuals, in which radiation levels from radiation sources external to the body could result in an individual receiving a dose equivalent in excess of 1 mSv (0.1 rem) in 1 hour at 30 centimeters from any source of radiation or from any surface that the radiation penetrates.

"Human use" means the internal or external administration of radiation or radioactive materials to human beings.

"Individual" means any human being.

"Individual monitoring" means the assessment of:

Dose equivalent by the use of individual monitoring devices or by the use of survey data; or

Committed effective dose equivalent by bioassay or by determination of the time-weighted air concentrations to which an individual has been exposed (i.e., DAC-hours). (For the definition of DAC-hours, see 32 Ill. Adm. Code 340.30.)

"Individual monitoring devices" (personnel dosimeter or dosimeter) means devices designed to be worn by a single individual for the assessment of dose equivalent. Examples of individual monitoring devices are film badges, thermoluminescence ~~thermoluminescent~~ dosimeters (TLDs), optically stimulated luminescence dosimeters (OSLs), pocket ionization chambers, personal air sampling devices and electronic dosimeters (e.g., silicon diode dosimeters).

"Inspection" means an official examination or observation including, but not limited to, tests, surveys, and monitoring to determine compliance with rules, regulations, orders, requirements, and conditions of the Department.

"Interlock" means a device arranged or connected such that the occurrence of an event or condition is required before a second event or condition can occur or continue to occur.

"Internal dose" means that portion of the dose equivalent received from radioactive material taken into the body.

"Lens dose equivalent" (see "Eye dose equivalent")

"License" means any license issued by the Department in accordance with 32 Ill. Adm. Code: Chapter II, Subchapters b and d.

"Licensed material" means radioactive material received, possessed, used, transferred or disposed of under a general or specific license issued by the Department.

"Licensee" means any person who is licensed by the Department in accordance with 32 Ill. Adm. Code: Chapter II, Subchapters b and d.

"Licensing State" means any state which has been provisionally or finally designated as such by the Conference of Radiation Control Program Directors, Inc., which reviews state regulations to establish equivalency with the Suggested State Regulations and ascertains whether a state has an effective program for control of naturally occurring or accelerator-produced radioactive material (NARM). The Conference will designate as licensing states those states with regulations for control of radiation relating to, and an effective program for the regulatory control of, NARM.

"Lost or missing source of radiation" means any licensed or registered source of radiation whose location is unknown. This definition includes, but is not limited to, radioactive material that has been shipped but has not reached its planned destination and whose location cannot be readily traced in the transportation system.

"Major processor" means a person, other than medical programs, universities, industrial radiography services, or wireline service operations, who is licensed to process, handle, or manufacture radioactive material as unsealed sources in quantities exceeding the quantities specified in Appendix C to 10 CFR 20.1001 - 20.2401, effective January 1, 1994, exclusive of subsequent amendments or editions, by a factor of at least 10(3), or radioactive material as sealed sources in quantities exceeding the quantities specified in Appendix C to 10 CFR 20.1001 - 20.2401 by factor of at least 10(10).

"Member of the public" means any individual, except an individual who is performing assigned duties for the licensee or registrant involving exposure to sources of radiation.

"Minor" means an individual less than 18 years of age.

"Monitoring" (radiation monitoring or radiation protection monitoring) means the measurement of radiation, radioactive material concentrations, surface area activities or quantities of radioactive material and the use of the results of these measurements to evaluate

potential exposures and doses.

"NARM" means any naturally occurring or accelerator-produced radioactive material. It does not include by product, source, or special nuclear material.

"Natural radioactivity" means radioactivity of naturally occurring nuclides.

Nuclear Regulatory Commission" (NRC) means the U.S. Nuclear Regulatory Commission or its duly authorized representatives.

"Occupational dose" means the dose received by an individual in the course of employment in which the individuals assigned duties for the licensee or registrant involve exposure to sources of radiation. Occupational dose does not include dose received from background radiation, from any medical administration the individual has received, from exposure to individuals administered radioactive material and released as authorized by the Department, ~~as a patient from medical practices~~, from voluntary participation in medical research programs, or as a member of the public.

"Operator" means an individual, group of individuals, partnership, firm, corporation, association, or other entity conducting the business or activities carried on within a radiation installation. [420 ILCS 40/4(d-7)]

~~Operator" means any individual, group of individuals, partnership, firm, corporation or association conducting the business or activities carried on within a radiation installation.~~

"Package" means the packaging, together with its radioactive contents, as presented for transport.

"Packaging" means the assembly of components necessary to ensure compliance with the packaging requirements of 32 Ill. Adm. Code 341. It may consist of one or more receptacles, absorbent materials, spacing structures, thermal insulation, radiation shielding and devices for cooling or absorbing mechanical shocks. The vehicle, tie down system and auxillary equipment may be designated as part of the packaging.

"Person" *means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this State, any other State or political subdivision or agency thereof, and any legal successor, representative, agent, or agency of the foregoing, other than the United States Nuclear Regulatory Commission, or any successor thereto,*

and other than federal government agencies licensed by the United State Nuclear Regulatory Commission, or any successor thereto. "Person" also includes a federal entity (and its contractors) if the federal entity agrees to be regulated by the State or as otherwise allowed under federal law. [420 ILCS 40/4(e)] ~~{See Section 4(e) of the Act.}~~

"Personnel monitoring equipment" (see "Individual monitoring devices").

"Pharmacist" means an individual licensed by the State pursuant to the Pharmacy Practice Act of 1987 ~~{Ill. Rev. Stat. 1991, ch. 111, par. 4121 et seq.}~~ [225 ILCS 85] to compound and dispense drugs, prescriptions, and poisons.

"Physician" means an individual licensed to practice a treatment of human ailments by virtue of the Medical Practice Act of 1987 ~~{Ill. Rev. Stat. 1991, ch. 111, par. 4400-1 et seq.}~~ [225 ILCS 60], the ~~The~~ Illinois Dental Practice Act ~~{Ill. Rev. Stat. 1991, ch. 111, par. 2301 et seq.}~~ [225 ILCS 25] or the Podiatric Medical Practice Act of 1987 ~~{Ill. Rev. Stat. 1991, ch. 111, par. 4001 et seq.}~~ [225 ILCS 100], who may use radiation for therapeutic, diagnostic, or other medical purposes within the limits of the individual's licensure.

"Protective apron" means any apron made of radiation attenuating materials, at least 0.25 millimeter lead equivalent, that may be used to reduce exposure to radiation.

"Public dose" means the dose received by a member of the public from sources of radiation from licensed or registered operations. Public dose does not include occupational dose, or dose received from background radiation, from any medical administration the individual has received, from exposure to individuals administered radioactive material and released as authorized by the Department, ~~as a patient from medical practices~~ or from voluntary participation in medical research programs.

"Qualified engineering expert" means any person qualified under the Illinois Architecture Practice Act of 1989 ~~{Ill. Rev. Stat. 1991, ch. 111, par. 1301 et seq.}~~ [225 ILCS 305], the Structural Engineering Licensing Act of 1989 ~~{Ill. Rev. Stat. 1991, ch. 111, par. 6601 et seq.}~~ [225 ILCS 340] and/or any required combination thereof.

"Quality factor" (Q) means the modifying factor (listed in Section 310.140, Tables 1 and 2 of this Part) that is used to derive dose equivalent from absorbed dose.

"Rad" means the special unit of absorbed dose. One rad is equal to an

absorbed dose of 100 ergs per gram or 0.01 joule per kilogram (J/kg) (0.01 Gy).

"Radiation" (ionizing radiation) means *gamma rays and x-rays, alpha and beta particles, high-speed electrons, neutrons, protons, and other nuclear particles, or electromagnetic radiations capable of producing ions directly or indirectly in their passage through matter; but does not include sound or radio waves, or visible infrared or ultraviolet light.* [420 ILCS 40/4(f)] ~~{See Section 4(f) of the Act.}~~

"Radiation area" means an area, accessible to individuals, in which radiation levels could result in an individual receiving a dose equivalent in excess of 0.05 mSv (0.005 rem) in 1 hour at 30 centimeters from the source of radiation or from any surface that the radiation penetrates.

"Radiation dose" (see "Dose").

"Radiation emergency" means *the uncontrolled release of radioactive material from a radiation installation which poses a potential threat to the public health, welfare and safety.* [420 ILCS 40/4(f-5)]

"Radiation Installation" *is any location or facility where radiation machines are used or where radioactive material is produced, transported, stored, disposed or used for any purpose* [420 ILCS 40/4(g)], ~~{See Section 4(g) of the Act.}~~ except where such radioactive materials or facility are subject to regulation by the NRC.

"Radiation machine" means *any device that produces radiation when in use* [420 ILCS 40/4(h)], ~~{See Section 4(h) of the Act.}~~ except those which produce radiation only from radioactive materials.

"Radiation safety officer" means an individual who has the knowledge and responsibility to apply appropriate radiation protection regulations and has been assigned such responsibility by the licensee or registrant.

"Radioactive material" means *any solid, liquid, or gaseous substance which emits radiation spontaneously.* [420 ILCS 40/4(i)] ~~{See Section 4(i) of the Act.}~~

"Radioactivity" means the disintegration (transformation) of unstable atomic nuclei by the emission of radiation.

"Radiobioassay" (see "Bioassay").

"Registrant" means any person who is registered with the Department and is legally obligated to register with the Department pursuant to

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the Radiation Protection Act of 1990 [420 ILCS 40] ~~Installation Act (Ill. Rev. Stat. 1991, ch. 111 1/2, par. 195 et seq.) (420 ILCS 30)~~ and 32 Ill. Adm. Code 320.10.

"Registration" means registration with the Department in accordance with 32 Ill. Adm. Code 320.10.

"Regulations of the U.S. Department of Transportation" (U.S. DOT) means the regulations in 49 CFR 100-189, revised as of October 1, 1996 ~~1991~~, exclusive of any subsequent amendments or editions.

"Rem" means the special unit of any of the quantities expressed as dose equivalent. The dose equivalent in rem is equal to the absorbed dose in rad multiplied by the quality factor (1 rem = 0.01 Sv).

"Research and development" means:

theoretical analysis, exploration, or experimentation; or

the extension of investigative findings and theories of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes. Research and development does not include the internal or external administration of radiation or radioactive material to human beings.

"Restricted area" means any area access to which is limited by the licensee or registrant for purposes of protecting individuals against undue risks from exposure to sources of radiation. Restricted area shall not include areas used for residential quarters, but separate rooms in a residential building may be set apart as a restricted area.

"Roentgen" means the special unit of exposure. One roentgen (R) equals 2.58 x 10(-4) coulombs per kilogram (C/kg). (See "Exposure" and Section 310.140 of this Part.)

"Sealed source" means any device containing radioactive material to be used as a source of radiation which has been constructed in such a manner as to prevent the escape of any radioactive material. ~~"Sealed source" means *any device containing radioactive material to be used as a source of radiation which has been constructed in such a manner as to prevent the escape of any radioactive material.* (See Ill. Rev. Stat. 1991, ch. 111 1/2, par. 194(f).) (420 ILCS 30/1(f))~~

"Sensitometer" means a device that is used to test the setup and stability of film processing procedures and equipment by providing a standard pattern of light exposure of x-ray film.

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"Shallow dose equivalent" (H[s]), which applies to the external exposure of the skin or an extremity, means the dose equivalent at a tissue depth of 0.007 centimeter (7 milligrams per square centimeter) averaged over an area of 1 square centimeter.

"SI" means the abbreviation for the International System of Units.

"Sievert" (Sv) means the SI unit of any of the quantities expressed as dose equivalent. The dose equivalent in sievert is equal to the absorbed dose in gray multiplied by the quality factor (1 Sv = 100 rem).

Source material" means:

uranium or thorium, or any combination thereof, in any physical or chemical form; or

ores which contain by weight one-twentieth of one percent (0.05 percent) or more of uranium, thorium or any combination thereof.

Source material does not include special nuclear material.

"Source of radiation" means any radioactive material or any device or equipment emitting, or capable of producing, radiation.

"Special form radioactive material" means radioactive material that satisfies the following conditions:

It is either a single solid piece or is contained in a sealed capsule that can be opened only by destroying the capsule;

The piece or capsule has at least one dimension not less than 5 millimeters (0.197 inch); and

It satisfies the test requirements specified in 10 CFR 71.75 and 71.77, revised as of January 1, 1998 ~~1991~~, exclusive of subsequent amendments or editions, except that special form radioactive material designed or constructed prior to July 1, 1985 need only meet the requirements of 10 CFR 71.75 and 71.77 in effect on June 30, 1983.

"Special nuclear material" means: *(1) plutonium, uranium 233, uranium enriched in the isotope 233 or in the isotope 235 and any other material which the Department declares by order to be special nuclear material after the United States Nuclear Regulatory Commission, or any successor thereto, has determined the material to be such, but does not include source material; or (2) any material artificially enriched by any of the foregoing, but does not include source material.* [420

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ILCS 40/4(l)] ~~{See Section 4(i) of the Act.}~~

"Special nuclear material in quantities not sufficient to form a critical mass" means uranium enriched in the isotope U-235 in quantities not exceeding 350 grams of contained U-235; U-233 in quantities not exceeding 200 grams; plutonium in quantities not exceeding 200 grams; or any combination of them, except source material, in accordance with the following formula: For each kind of special nuclear material, determine the ratio between the quantity of that special nuclear material and the quantity specified above for the same kind of special nuclear material. The sum of such ratios for all of the kinds of special nuclear material in combination shall not exceed one. For example, the following quantities in combination would not exceed the limitation and are within the formula:

$$\frac{175 \text{ (grams contained U-235)}}{350} + \frac{50 \text{ (grams U-233)}}{200} + \frac{50 \text{ (grams Pu)}}{200} = 1$$

"Survey" means an evaluation of the radiological conditions and potential hazards incident to the production, use, transfer, release, disposal,or presence of sources of radiation. Such an evaluation includes, but is not limited to, measurements or calculations of levels of radiation, or concentrations or quantities of radioactive material present.

"Test" means the process of verifying compliance with an applicable regulation.

"Total effective dose equivalent" (TEDE) means the sum of the deep dose equivalent for external exposures and the committed effective dose equivalent for internal exposures.

"Total organ dose equivalent" (TODE) means the sum of the deep dose equivalent and the committed dose equivalent to the organ receiving the highest dose as described in 32 Ill. Adm. Code 340.1160(a)(6).

"Unrefined and unprocessed ore" means ore in its natural form prior to any processing, such as grinding, roasting, beneficiating or refining.

"Unrestricted area" means any area access to which is not controlled by the licensee or registrant for purposes of protection of individuals from exposure to radiation and radioactive material, and any area used for residential quarters.
AGENCY NOTE: Licensees or registrants may control access to certain areas for purposes other than radiation protection, but such action does not affect whether the areas are unrestricted areas as defined in this Part.

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"Uranium fuel cycle" means the operations of milling of uranium ore, chemical conversion of uranium, isotopic enrichment of uranium, fabrication of uranium fuel, generation of electricity by a light-water-cooled nuclear power plant using uranium fuel and reprocessing of spent uranium fuel to the extent that these activities directly support the production of electrical power for public use. Uranium fuel cycle does not include mining operations, operations at waste disposal sites, transportation of radioactive material in support of these operations and the reuse of recovered non-uranium special nuclear and by product materials from the cycle.

"U.S. Department of Energy" means the agency created by the Department of Energy Organization Act (established by P.L. 95-91, 91 Stat. 565, 42 USC ~~U.S.C.~~ 7101 et seq.), to the extent that the Department of Energy, or its duly authorized representatives, exercises functions formerly vested in the U.S. Atomic Energy Commission, its Chairman, members, officers and components and transferred to the U.S. Energy Research and Development Administration and to the Administrator thereof pursuant to sections 104(b), (c) and (d) of the Energy Reorganization Act of 1974 (P.L. 93-438, 88 Stat. 1233 at 1237, 42 USC ~~U.S.C.~~ 5814) and retransferred to the Secretary of Energy pursuant to section 301(a) of the Department of Energy Organization Act (P.L. 95-91, 91 Stat. 565 at 577-578, 42 USC ~~U.S.C.~~ 7151).

"Very high radiation area" means an area, accessible to individuals, in which radiation levels from radiation sources external to the body could result in an individual receiving an absorbed dose in excess of 5 Gy (500 rad) in 1 hour at 1 meter from a source of radiation or from any surface that the radiation penetrates.
AGENCY NOTE: For very high doses received at high dose rates, units of absorbed dose (e.g., gray and rad) are appropriate rather than units of dose equivalent (e.g., sievert and rem).

"Waste handling licensee" means a person licensed by the NRC, the Department, an Agreement State or a Licensing State to receive radioactive wastes for storage, treatment, or both storage and treatment prior to disposal as well as any person licensed to receive radioactive waste for disposal away from the point of generation.

"Week" means 7 consecutive days starting on Sunday.

"Whole body" means, for purposes of external exposure, head, trunk (including male gonads), arms above the elbow or legs above the knee.

"Worker" means any individual engaged in work under a license or registration issued by the Department and controlled by a licensee or registrant, but does not include the licensee or registrant.

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"Working level" (WL) means any combination of short-lived radon daughters in 1 liter of air that will result in the ultimate emission of 1.3 x 10(5) MeV of potential alpha particle energy. The short-lived radon daughters are for radon-222: polonium-218, lead-214, bismuth-214 and polonium-214; and for radon-220: polonium-216, lead-212, bismuth-212 and polonium-212.

"Working level month" (WLM) means an exposure to 1 working level (WL) for 170 hours. (2,000 working hours per year divided by 12 months per year is approximately equal to 170 hours per month.)

"Year" means the period of time beginning in January used to determine compliance with the provisions of 32 Ill. Adm. Code: Chapter II, Subchapters b and d. The licensee or registrant may change the starting date of the year used to determine compliance by the licensee or registrant provided that the decision to make the change is made not later than December 31 of the previous year. If a licensee or registrant changes a year, the licensee or registrant shall assure that no day is omitted or duplicated in consecutive years.

(Source: Amended at 23 Ill. Reg. 14454, effective JAN - 1 2000)

Section 310.50 Inspections

a) Each person shall afford the Department at all reasonable times opportunity to inspect radiation installations and sources of radiation and the premises and facilities wherein such radiation installations and sources of radiation are used or stored.

b) Each person shall make available to the Department for inspection, upon reasonable notice, records maintained pursuant to 32 Ill. Adm. Code: Chapter II, Subchapters b and d.

c) *The Department* is authorized ~~shall have the power~~ *to enter at all reasonable times upon any private or public property for the purpose of determining whether or not there is compliance with or violation of the provisions of this Act and rules and regulations issued thereunder.* *The Department may inspect and investigate premises, operations, and personnel and have access to and copy records for the purpose of evaluating past, current, and potential hazards to the public health, workers, or the environment resulting from radiation.* *Entry*~~, except that entry~~ *into areas under jurisdiction of the Federal Government shall be effected only with the concurrence of the Federal Government or its duly designated representative.* [420 ILCS 40/27] ~~(See Section 27 of the Act.)~~

(Source: Amended at 23 Ill. Reg. 14454, effective JAN - 1 2000)

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Section 310.74 Cost Assessment

The Department has authority under the Radiation Protection Act of 1990 [420 ILCS 40] to take actions necessary to abate violations of the Act or any rules or regulations promulgated under the Act and may *provide that all or a portion of the cost of such actions be assessed to operators of radiation installations or other persons responsible for the violation or contamination.* [420 ILCS 40/36]

a) The Department may assess all or a portion of the costs incurred to abate violations to responsible operators of radiation installations or other responsible persons. Costs that are assessed shall be based on the Department's actual response costs, including, but not limited to:

1) Time required by the Department professional staff to coordinate response;

2) Time spent traveling and providing administrative support;

3) Performance or oversight of decontamination activities at properties contaminated with radioactive material;

4) Performance or oversight of confirmatory environmental monitoring;

5) Performance or oversight of treatment, storage, transfer and disposal of sources of radiation;

6) Equipment and supplies; and

7) Contractual support, if any, incurred by the Department.

AGENCY NOTE: These support service costs may include, but are not limited to, rental of specialized equipment, acquisition of additional professional expertise not available within the Department and laboratory fees charged to the Department.

b) Any party affected by an order of the Department assessing cost shall have the right to a hearing before the Department in accordance with 32 Ill. Adm. Code 200.

(Source: Added at 23 Ill. Reg. 14454, effective JAN - 1 2000)

Section 310.80 Violations

a) *Any person who shall violate any of the provisions of, or who fails to perform any duty imposed by this Act, or who violates any determination or order of the Department promulgated pursuant to the Act is guilty of a Class A misdemeanor; provided each day during which violation continues shall constitute a separate offense; and in addition thereto, such person may be enjoined from continuing such violation as hereinafter provided.* [420 ILCS 40/39(a)] ~~(See Section 39 of the Act.)~~

b) *A person who knowingly makes a false material statement to a Department employee during the course of official Department business or in an application for accreditation, certification, registration or*

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licensure under the Act is guilty of a Class A misdemeanor for a first offense and is guilty of a Class 4 felony for a second or subsequent offense. [420 ILCS 40/39(b)(1)]

c) *A person who knowingly alters a credential, certificate, registration, or license issued by the Department for the purpose of evading a requirement of the Act is guilty of a Class A misdemeanor for a first offense and is guilty of a Class 4 felony for a second or subsequent offense.* [420 ILCS 40/39(b)(2)]

~~d~~b) *Whenever the Department believes upon inspection and examination of a radiation installation or a radiation source as constructed, operated, or maintained that there has been a violation of any of the Department's rules or regulations promulgated pursuant to the Act, the Department, in addition to taking other enforcement action, may impose a civil penalty, not* to exceed $10,000 *for such violation, provided each day the violation continues shall constitute a separate offense.* [420 ILCS 40/36] ~~(See Section 36 of the Act.)~~

~~e~~c) *The penalties provided herein shall be recoverable in an action brought in the name of the people of the State of Illinois by the Attorney General.* [420 ILCS 40/39(c)] ~~(See Section 39 of the Act.)~~

(Source: Amended at 23 Ill. Reg. 14454, effective JAN 1 2000)

Section 310.81 Policy for Assessment Civil Penalties

a) Civil penalties ~~*Whenever the Department believes upon inspection and examination of a radiation installation or a radiation source as constructed, operated or maintained that there has been a violation of any of the provisions of the Act or of any rules or regulations promulgated pursuant to the Act, the Department, in addition to taking other enforcement action, may impose a civil penalty not to exceed $10,000 for such violation.* (See Section 36 of the Act.) Penalties~~ shall be assessed in accordance with the provisions of this Section and Section 310.82 of this Part.

b) A civil penalty will be assessed whenever the Department, based on consideration of the factors set forth in subsection (c) of this Section ~~below~~, determines that a civil penalty is appropriate and issues a Preliminary Order and Notice of Opportunity for Hearing, in accordance with 32 Ill. Adm. Code 200.60.

c) Factors to be Considered in Assessing Civil Penalties

1) The Department shall consider the factors contained in subsection (c)(2) of this Section ~~below~~ to determine whether a penalty should be assessed, as provided in subsection (d) of this Section ~~below~~, and the amount of the penalty. However, if the Department has by rule established the amount to be assessed for a particular violation, the Department shall assess the penalty as specified in that rule without regard to the factors contained in subsection (c)(2) of this Section ~~below~~.

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AGENCY NOTE: For an example of a rule that establishes the amount of the civil penalty to be assessed, see 32 Ill. Adm. Code 401.170, which specifies the civil penalties to be assessed for violations of the Department's radiologic technologist accreditation requirements.

2) The factors to be considered by the Department are:

A) History of Previous Violations. The Department shall consider the person's history of previous violations of the Radiation Protection Act of 1990, the Department's rules promulgated under that Act, and licenses issued pursuant to the Act. Each prior violation will be considered without regard to whether it led to a civil penalty assessment. A prior violation shall not be considered, however, if the notice or order relating to the prior violation is the subject of pending administrative or judicial review, or if the time to request such review or to appeal any administrative or judicial decision relating to the prior violation has not expired. The Department shall not consider a prior violation if a Preliminary or Final Order pertaining to that prior violation has been vacated. The Department shall not consider previous violations that occurred more than 6 ~~six~~ years prior to the issuance of the Preliminary Order.

B) Severity of the Violation. The Department shall consider the severity of the violation, including, but not limited to, actual or potential contamination of the environment resulting from the violation and any actual or potential hazard to the health or safety of the public or to workers, resulting from the violation. When evaluating the severity of the violation, the Department may also consider the impact that the violation has on the Department's ability to determine compliance with requirements established by statute, regulation or license condition.

C) Culpability. The Department shall consider whether the person to whom the Preliminary Order was issued was negligent in causing, allowing, or failing to correct the violation, condition, or practice which was cited in the Preliminary Order. The Department shall also consider:

i) whether the violation was intentional or inadvertent;

ii) whether the violation was allowed to continue once identified;

iii) whether actions were taken to correct or mitigate the violation and the timeliness of such actions; and

iv) whether the violation was voluntarily reported to the Department.

d) Determination of the Amount of Penalty; Assessment of Separate Violations for Each Day

1) The Department may assess a civil penalty not to exceed ten

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thousand dollars ($10,000) per violation for each day the violation continues. In determining whether to make such an assessment, the Department shall consider the factors listed in subsection (c) of this Section ~~above~~; however, if the Department's rules specify the amount of the civil penalty to be assessed for a particular violation, the Department shall assess the civil penalty in that amount so specified, without consideration of the factors listed in subsection (c) of this Section ~~above~~.

2) When determining the amount of penalty, the Department shall consider each day of a continuing violation to be a separate violation. Accordingly, the Department may assess a separate penalty, in accordance with this Section and Section 310.82 of this Part, for each day that a violation continues.

(Source: Amended at 23 Ill. Reg. 14454, effective JAN - 1 2000)

Section 310.82 Procedures for Assessment of Civil Penalties

a) Issuance of Assessment

1) If the Department assesses a civil penalty pursuant to Section 310.81(b) of this Part, it shall do so by issuing a Preliminary Order and Notice of Opportunity for Hearing pursuant to 32 Ill. Adm. Code 200.

2) The Preliminary Order and Notice of Opportunity for Hearing shall contain, for each violation alleged, the proposed civil penalty to be assessed ~~and the Department's basis for proposing the assessment~~.

b) Payment of Assessment

Unless a hearing has been requested by the deadline specified in the Preliminary Order and Notice of Opportunity for Hearing, within ~~thirty (~~ 30~~)~~ days after issuance of the Preliminary Order, the person upon whom the penalty was assessed shall pay the penalty in full.

c) Procedures for Hearing

1) The person to whom the Preliminary Order and Notice of Opportunity for Hearing was issued may appeal the imposition of the civil penalty by submitting a written request for a hearing in accordance with 32 Ill. Adm. Code 200.70.

2) Upon receiving such a request for a hearing, the Department shall conduct a public hearing regarding the finding of violation or the penalty assessment, in accordance with the provisions of 32 Ill. Adm. Code 200.

3) After the hearing is held, the Director shall issue a Final Order in accordance with 32 Ill. Adm. Code 200.230.

d) Final Assessment and Payment of Penalty

1) If the person to whom a Preliminary Order and Notice of Opportunity for Hearing is issued fails to request a hearing ~~as provided in subsection (b) above~~, the Preliminary Order shall become a final order of the Department and the penalty assessed shall become due and payable within ~~the thirty (~~ 30~~)~~ days from issuance of the Preliminary Order.

2) If either the person to whom a Preliminary Order and Notice of Opportunity for Hearing is issued requests judicial review of a final order of the Department, the penalty assessed in accordance with Section 310.81(c) of this Part shall not be payable until completion of the review.

3) The civil penalties provided herein shall be recoverable in an action brought in the name of the people of the State of Illinois by the Attorney General.

(Source: Amended at 23 Ill. Reg. 14454, effective JAN - 1 2000)

Section 310.90 Impounding

a) *Authority of Department in cases constituting an immediate threat to health. Notwithstanding any other provision of the Act, whenever the Department finds that a condition exists which constitutes an immediate threat to health due to the violation of any provisions of this Act or any code, rule, regulation or order promulgated under this Act and requiring immediate action to protect the public health or welfare, it may issue an order reciting the existence of such an immediate threat and the findings of the Department pertaining thereto. The Department may summarily cause the abatement of such violation or may direct the Attorney General to obtain an injunction against such violator.* [420 ILCS 40/38] ~~(See Section 38 of the Act.)~~

b) *Such order shall be effective immediately but shall include notice of the time and place of a public hearing before the Department to be held within 30 days of the date of such order to assure the justification of such order. On the basis of such hearing the Department shall continue such order in effect, revoke it or modify it. Any party affected by an order of the Department shall have the right to waive the public hearing proceedings.* [420 ILCS 40/38] ~~(See Section 38 of the Act.)~~

(Source: Amended at 23 Ill. Reg. 14454, effective JAN - 1 2000)

Section 310.140 Units of Exposure and Radiation Dose

a) As used in 32 Ill. Adm. Code: Chapter II, Subchapters b and d, the unit of exposure is the coulomb per kilogram (C/kg) or roentgen (R). One roentgen (R) is equal to 2.58 x 10(-4) C/kg.

b) As used in 32 Ill. Adm. Code: Chapter II, Subchapters b and d, the units of radiation dose are:

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1) "Gray" (Gy) is the SI unit of absorbed dose. One Gy is equal to an absorbed dose of 1 joule per kilogram (J/kg). (1 Gy = 100 rad).
2) "Rad" is the special unit of absorbed dose. One rad is equal to an absorbed dose of 100 ergs per gram or 0.01 joule per kilogram (J/kg). (1 rad = 0.01 Gy).
3) "Rem" is the special unit of any of the quantities expressed as dose equivalent. The dose equivalent in rem is equal to the absorbed dose in rad multiplied by the quality factor (1 rem = 0.01 Sv).
4) "Sievert" (Sv) is the SI unit of any of the quantities expressed as dose equivalent. The dose equivalent in sievert is equal to the absorbed dose in gray multiplied by the quality factor (1 Sv = 100 rem).

c) As used in 32 Ill. Adm. Code: Chapter II, Subchapters b and d, the quality factors for converting absorbed dose to dose equivalent are as follows:

Type of Radiation	Quality Factor (Q)	Absorbed Dose Equal to a Unit Dose Equivalent(a)
X, gamma or beta radiation and high-speed electrons	1	1
Alpha particles, multiple-charged particles, fission fragments and heavy particles of unknown charge	20	0.05
Neutrons of unknown energy	10	0.1
High-energy protons	10	0.1

(a) *Absorbed dose in gray equal to 1 Sv or the absorbed dose in rad equal to 1 rem.

d) If it is more convenient to measure the neutron fluence rate than to determine the neutron dose equivalent rate in rem per hour or sievert per hour, as provided in subsection (c) of this Section, 0.01 Sv (1 rem) of neutron radiation of unknown energies may, for purposes of 32 Ill. Adm. Code: Chapter II, Subchapters b and d, be assumed to result from a total fluence of 25 million neutrons per square centimeter incident upon the body. If sufficient information exists to estimate the approximate energy distribution of the neutrons, the licensee may convert a measured tissue dose in gray (rad) to dose equivalent in sievert (rem) by using the fluence rate per unit dose equivalent or

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the appropriate Q value shown below.

Neutron Energy (MeV)	Quality Factor(a) (Q)	Fluence per Unit Dose Equivalent(b) (neutrons cm(-2) Sv(-1))	Fluence per Unit Dose Equivalent(b) (neutrons cm(-2) rem (-1))
2.5 E(-8) ~~(E-8)~~ (thermal)	2	980 E(8)	980 E(6)
1 E(-7)	2	980 E(8)	980 E(6)
1 E(-6)	2	810 E(8)	810 E(6)
1 E(-5)	2	810 E(8)	810 E(6)
1 E(-4)	2	840 E(8)	840 E(6)
1 E(-3)	2	980 E(8)	980 E(6)
1 E(-2)	2.5	1010 E(8)	1010 E(6)
1 E(-1)	7.5	170 E(8)	170 E(6)
5 E(-1)	11	39 E(8)	39 E(6)
1	11	27 E(8)	27 E(6)
2.5	9	29 E(8)	29 E(6)
5	8	23 E(8)	23 E(6)
7	7	24 E(8)	24 E(6)
10	6.5	24 E(8)	24 E(6)
14	7.5	17 E(8)	17 E(6)
20	8	16 E(8)	16 E(6)
40	7	14 E(8)	14 E(6)
60	5.5	16 E(8)	16 E(6)
1 E(2)	4	20 E(8)	20 E(6)
2 E(2)	3.5	19 E(8)	19 E(6)
3 E(2)	3.5	16 E(8)	16 E(6)
4 E(2)	3.5	14 E(8)	14 E(6)

(a) Value of quality factor (Q) at the point where the dose equivalent is maximum in a 30-centimeter diameter cylinder tissue-equivalent phantom.

(b) Monoenergetic neutrons incident normally on a 30-centimeter diameter cylinder tissue-equivalent phantom.

(Source: Amended at 23 Ill. Reg. 14454, effective JAN 1 2000)

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NOTICE OF ADOPTED AMENDMENT(S)

1) Heading of the Part: Notices, Instructions and Reports to Workers; Inspections

2) Code Citation: 32 Ill. Adm. Code 400

3)

Section Number:	Adopted Action:
400.10	Amendment
400.110	Amendment
400.120	Amendment
400.130	Amendment
400.140	Amendment
400.150	Amendment
400.170	Amendment

4) Statutory Authority: Implementing and authorized by Sections 16 and 29 of the Radiation Protection Act of 1990 [420 ILCS 40/16 and 29] and Section 5 of the Personnel Radiation Monitoring Act [420 ILCS 25/5] .

5) Effective Date of Amendments: January 1, 2000

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office at 1035 Outer Park Dr., Springfield, Illinois and is available for public inspection.

9) Notice of Proposal Published in the Illinois Register: August 20, 1999 (23 Ill. Reg. 9653)

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Differences between proposal and final version: None

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? No agreement letter was issued by JCAR regarding this rulemaking.

13) Will these amendments replace an emergency amendment currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendment: This amendment will: (1) delete references to the nondepartment qualified inspector program due to statutory changes; and (2) make editorial changes to conform to JCAR format.

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16) Information and questions regarding these adopted amendments shall be directed to:

Robert B. Holtsclaw
Senior Staff Attorney
Department of Nuclear Safety
1035 Outer Park Drive
Springfield, Illinois 62704
(217) 524-1003 (voice)
(217) 782-6133 (TDD)

The full text of the adopted amendments begins on the next page:

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NOTICE OF ADOPTED AMENDMENT(S)

TITLE 32: ENERGY
CHAPTER II: DEPARTMENT OF NUCLEAR SAFETY
SUBCHAPTER b: RADIATION PROTECTION

PART 400
NOTICES, INSTRUCTIONS AND REPORTS TO WORKERS; INSPECTIONS

Section

AUTHORITY: Implementing and authorized by Sections 16 and 29 of the Radiation Protection Act of 1990 [420 ILCS 40/16 and 29], and Section 5 of the Personnel Radiation Monitoring Act [420 ILCS 25/5].

SOURCE: Adopted at 10 Ill. Reg. 17496, effective September 25, 1986; amended at 11 Ill. Reg. 15629, effective September 11, 1987; amended at 13 Ill. Reg. 13581, effective August 11, 1989; amended at 16 Ill. Reg. 11531, effective July 7, 1992; amended at 18 Ill. Reg. 3132, effective February 22, 1994; amended at 23 Ill. Reg. 14479, effective JAN - 1 2000.

Section 400.10 Purpose and Scope

a) This Part establishes requirements for notices, instructions and reports by licensees or registrants to individuals engaged in activities under a license or registration and options available to such individuals in connection with Department of Nuclear Safety (Department) inspections of licensees or registrants to ascertain compliance with the provisions of the Radiation Protection Act of 1990 ~~(Ill.-Rev.-Stat.-1991,-ch.-111-1/2,-pars.-210-1-et-seq.)~~ [420 ILCS 40] (the Act) and regulations, orders and licenses issued thereunder regarding radiological working conditions.

b) This Part shall apply to:
   1) All persons who receive, possess, use, own or transfer sources of radiation registered with or licensed by the Department pursuant to 32 Ill. Adm. Code: Chapter II, Subchapter b and d.
   2) Inspection and testing of radiation machines and associated operating procedures by the Department ~~Departmental-inspectors-or-by-qualified-nondepartment-inspectors-whose-names-are-included-in-the-department's-record--of--individuals--approved--as--qualified-nondepartment--inspectors--of--radiation--machines-pursuant-to-32-Ill.-Adm.-Code-410~~.
   3) Inspection of licensed activities by Departmental inspectors.

(Source: Amended at 23 Ill. Reg. 14479, effective JAN - 1 2000)

Section 400.110 Posting of Notices to Workers

a) Each licensee or registrant shall post current copies of the following documents:
   1) The provisions in this Part and in 32 Ill. Adm. Code 340;
   2) The certificate of registration, the license, the license conditions and any documents incorporated into the license by reference and amendments thereto;
   3) The operating procedures applicable to activities under the license or registration; and
   4) Any notice of violation involving radiological working conditions, proposed imposition of civil penalty or order issued pursuant to 32 Ill. Adm. Code 310 and any response from the licensee or registrant.

b) If the posting of a document specified in subsections (a)(1), (2) or (3) of this Section ~~above~~ is not practicable, the licensee or registrant may post a notice which describes the documents and states where they may be examined.

c) Department Form KLA.001 "Notice to Employees" shall be posted by each licensee or registrant.

d) Department documents posted pursuant to subsection (a)(4) of this Section ~~above~~ shall be posted within 5 working days after receipt of the documents from the Department; the licensee's or registrant's response, if any, shall be posted within 5 working days after dispatch from the licensee or registrant. Such documents shall remain posted for a minimum of 5 working days or until action correcting the violation has been completed, whichever is later.

e) Documents, notices, or forms posted pursuant to this Section shall appear in a sufficient number of places to permit individuals engaged in work under the license or registration to observe them on the way to or from any particular work location to which the document applies, shall be conspicuous and shall be replaced if defaced or altered.

(Source: Amended at 23 Ill. Reg. 14479, effective JAN - 1 2000)

Section 400.120 Instructions to Workers

a) All individuals working in, or the performance of whose duties requires access to any portion of a restricted area:
   1) Shall be kept informed of the storage, transfer or use of sources of radiation in such portions of the restricted area;

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2) Shall be instructed in the health protection problems associated with exposure to radiation or radioactive material, in the risks of radiation exposure to the embryo and fetus, in precautions or procedures to minimize exposure and in the purposes and functions of protective devices employed;
3) Shall be instructed in, and instructed to observe to the extent within the worker's control, the conditions of the license, the provisions of this Part and 32 Ill. Adm. Code: Chapter II, Subchapters b and d for the protection of personnel from exposures to radiation or radioactive material occurring in such areas;
4) Shall be instructed to report promptly to the licensee or registrant any condition which may constitute, lead to or cause a violation of the Act, the conditions of the license, the provisions of this Part or 32 Ill. Adm. Code: Chapter II, Subchapters b and d or unnecessary exposure to radiation or radioactive material;
5) Shall be instructed in the appropriate response to warnings made in the event of any unusual occurrence or malfunction that may involve exposure to radiation or radioactive material; and
6) Shall be advised as to the radiation exposure reports which workers shall be furnished pursuant to Section 400.130 of this Part.

b) These instructions shall be of sufficient detail to avoid radiological health protection problems and shall be given directly to each worker either in writing or in an orientation course, with the workers signing a statement that they have received the above information and understand it.

(Source: Amended at 23 Ill. Reg. 14479, effective JAN - 1 2000)

Section 400.130 Notifications and Reports to Individuals

a) Notifications and reports provided to individuals in accordance with this Section shall include data and results obtained pursuant to this Part, orders or license conditions, as shown in records maintained by the licensee or registrant pursuant to 32 Ill. Adm. Code 340.1160(a) and (d). Each notification and report shall:
1) Be in writing;
2) Include the name of the licensee or registrant, the name of the individual and the individual's social security number;
3) Include the individual's dose information; and
4) Contain the following statement:
"This report is furnished to you under the provisions of the Department of Nuclear Safety Regulations for Radiation Protection (32 Ill. Adm. Code 400). You should preserve this report for further reference."

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b) Each licensee or registrant shall advise each worker annually of the worker's dose as shown in records maintained by the licensee or registrant pursuant to 32 Ill. Adm. Code 340.1160(a) and (d).
c) At the request of a worker, each licensee or registrant shall furnish to the worker upon termination of employment a report of the worker's dose. Such report shall be furnished within 30 days from the time the request is made, or within 30 days of termination of employment or within 30 days after the individual's dose has been determined by the licensee or registrant, whichever is later. The report shall cover all periods of time in which the worker was required to be monitored pursuant to 32 Ill. Adm. Code 340.520 and shall include the dates and locations of work under the license or registration in which the worker participated.
d) When a licensee or registrant is required pursuant to 32 Ill. Adm. Code 340.1220, 340.1230 or 340.1240 to report to the Department any dose received by an individual, the licensee or the registrant shall also provide the individual a report of the dose information included therein. Such reports shall be transmitted at a time not later than the transmittal to the Department.
e) At the request of a worker who is terminating employment with the licensee or registrant in work involving radiation dose during the current year, or of a worker who, while employed by another person, is terminating a work assignment involving radiation dose in the licensee's or registrant's facility during the current year, each licensee or registrant shall provide to each such worker, or to the worker's designee, at termination, a written report regarding the radiation dose received by that worker from operations of the licensee or registrant during the current year or fraction thereof, or provide a written estimate of that dose if the finally-determined personnel monitoring results are not available at that time. Estimated doses shall be clearly indicated as such. If an estimate of dose is provided, the actual radiation dose records shall be provided to the worker when these records become available to the licensee or registrant.
AGENCY NOTE: The reporting requirements of subsections (b), (c) and (e) of this Section above apply only to workers who are required to be monitored pursuant to 32 Ill. Adm. Code 340.520.

(Source: Amended at 23 Ill. Reg. 14479, effective JAN - 1 2000)

Section 400.140 Presence of Representatives of Licensees or Registrants and Workers During Inspection

a) Pursuant to Section 400.160 of this Part and 32 Ill. Adm. Code 310.50, each licensee or registrant shall afford the Department at all reasonable times the opportunity to inspect such materials, machines, activities, facilities, premises and records as the Department

determines are necessary to establish compliance with the requirements of the license and the provisions of 32 Ill. Adm. Code: Chapter II, Subchapters b and d. Reasonable times shall be any time the facility is operational. The inspection may be announced or unannounced. Materials licensees shall be inspected at least as frequently as they would have been inspected by the U.S. Nuclear Regulatory Commission (NRC) if the licensees were regulated by the NRC, but no more frequently than once in a calendar quarter. Radiation machines shall be inspected in accordance with Section 25 ~~the provisions of Sections 27 and 29~~ of the Act. Inspection of licensees and radiation machines may be conducted more frequently than once per calendar quarter if, in the past three years, there has been a condition at the facility which required emergency response; or if the Department has received a complaint, the investigation of which shall ~~will~~ result in a more frequent inspection; or if the Department has documented a violation of the Act or the above referenced rules of the Department at the facility and additional inspections are necessary to establish that the violation has been abated.

b) During an inspection, Departmental ~~and---qualified---nondepartment~~ inspectors may consult privately with workers as specified in Section 400.150 of this Part. The licensee or registrant may accompany Departmental ~~and--qualified--nondepartment~~ inspectors during other phases of an inspection.

c) If, at the time of inspection, an individual has been authorized by the workers to represent them during inspections, the licensee or registrant shall notify the Departmental ~~or qualified nondepartment~~ inspectors of such authorization and shall give the workers' representative an opportunity to accompany the inspectors during the inspection of physical working conditions.

d) Each workers' representative shall be routinely engaged in work under control of the licensee or registrant and shall have received instructions as specified in Section 400.120 of this Part.

e) Different representatives of licensees or registrants and workers may accompany the Departmental ~~or--qualified--nondepartment~~ inspectors during different phases of an inspection if there is no resulting interference with the conduct of the inspection. However, only one workers' representative at a time may accompany the inspectors.

f) With the approval of the licensee or registrant and the workers' representative, an individual who is not routinely engaged in work under control of the licensee or registrant, for example, a consultant to the licensee or registrant or to the workers' representative, shall be afforded the opportunity to accompany Departmental ~~and--qualified nondepartment~~ inspectors during the inspection of physical working conditions.

g) Notwithstanding the other provisions of this Section, Departmental inspectors ~~and--qualified--nondepartment inspectors~~ are authorized to refuse to permit accompaniment by any individual who deliberately interferes with a fair and orderly inspection. With regard to areas

containing information classified by an agency of the U.S. Government in the interest of national security, an individual who accompanies an inspector may have access to such information only if authorized to do so. With regard to any area containing proprietary information, i.e., trade secrets and commercial or financial information where such information is privileged or confidential or where disclosure of such information may cause competitive harm, the workers' representative for that area shall be an individual previously authorized by the licensee or registrant to enter that area.

(Source: Amended at 23 Ill. Reg. 14479, effective JAN - 1 2000)

Section 400.150 Consultation with Workers During Inspections

a) Departmental ~~and--qualified--nondepartment~~ inspectors may consult privately with workers concerning matters of occupational radiation protection and other matters related to the activities of the licensee or registrant which bear upon compliance with the conditions of the license or the provisions of this Part or 32 Ill. Adm. Code: Chapter II, Subchapters b and d.

b) During the course of an inspection, or at any other time, any worker may bring privately to the attention of the Department or~~,~~ its inspectors ~~or qualified nondepartment inspectors~~, either orally or in writing, any past or present condition which the worker has reason to believe may have contributed to or caused any violation of the Act, the provisions of this Part or 32 Ill. Adm. Code: Chapter II, Subchapters b and d or license condition, or any unnecessary exposure of an individual to sources of radiation under the licensee's or registrant's control. Any such notice in writing shall comply with the requirements of Section 400.160(a) of this Part. If a worker seeks an opportunity to speak to an inspector during an inspection, the licensee or registrant shall permit the worker such opportunity.
*AGENCY NOTE: The provisions of subsection (b) of this Section ~~above~~ shall not be interpreted as authorization to disregard instructions pursuant to Section 400.120 of this Part.

(Source: Amended at 23 Ill. Reg. 14479, effective JAN - 1 2000)

Section 400.170 Inspections Not Warranted; Informal Review

a) Review of Determination That No Inspection is Warranted

1) If the Office of Radiation Safety determines, pursuant to Section 400.160 of this Part, that an inspection is not warranted, the Office of Radiation Safety shall notify the complainant in writing within 60 days of receipt of the complaint. The complainant may obtain review of such determination by submitting

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a written statement of position with the Department. The Department shall ~~will~~ provide the licensee or registrant with a copy of such statement by certified mail, excluding, at the request of the complainant, the name of the complainant. The licensee or registrant may submit an opposing written statement of position with the Department. The Department shall ~~will~~ provide the complainant with a copy of such statement by certified mail.

2) Upon the request of the complainant or the licensee or registrant, the Department shall hold an informal conference in which the complainant and the licensee or registrant may orally present their views. If such a conference is requested by the complainant, the presence of the licensee or registrant at the conference shall be subject to the concurrence of the complainant. If the conference is requested by the licensee or registrant, the presence or disclosure of the identity of the complainant shall ~~will~~ be made only pursuant to written authorization from the complainant. After considering all written and oral views presented, the Department shall affirm, modify, or reverse the determination of the Office of Radiation Safety and furnish the complainant and the licensee or registrant a written notification of the decision and the reason therefor.

b) If the Department determines that an inspection is not warranted because the requirements of Section 400.160(a) of this Part have not been met, the complainant shall be notified in writing, within 30 days of receipt of the complaint, of such determination. Such determination shall be without prejudice to the filing of a new complaint meeting the requirements of Section 400.160(a) of this Part.

(Source: Amended at 23 Ill. Reg. 14479, effective JAN 1 2000)

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1) Heading of the Part: Registration and Operator Requirements for Radiation Installations

2) Code Citation: 32 Ill. Adm. Code 320

3)

Section Number:	Adopted Action:
320.10	Amendment
320.15	Repeal
320.20	Amendment
320.30	Repeal
320.40	Amendment
320.50	Repeal
320.60	New Section
320.70	New Section

4) Statutory Authority: Implementing and authorized by Sections 24.7, 25 and 25.1 of the Radiation Protection Act of 1990 [420 ILCS 40/24.7, 25 and 25.1] (see P.A. 91-0340, effective July 29, 1999).

5) Effective Date of Amendments: January 1, 2000

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office at 1035 Outer Park Dr., Springfield, Illinois and is available for public inspection.

9) Notice of Proposal Published in the Illinois Register: August 20, 1999 (23 Ill. Reg. 9677)

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Differences between proposal and final version:

a) In Section 320.10, change "[420 ILCS 40/25(f)]" to "[420 ILCS 40/25 (f-1)]".

b) In Section 320.10, change "this" to "the".

c) In Section 320.70, correct format with no text changes.

d) In Section 320.70, change "Utilize" to "Each operator of a Class D radiation installation shall utilize".

e) In Section 320.70, change "that the registered individual(s)" to "that registered individuals".

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f) In Section 320.70, change "Conducts" to "Conduct".

g) In Section 320.70, change "Determines and documents" to "determine and document".

h) In Section 320.70, change "Establishes and oversees" to "Establish and oversee".

i) In Section 320.70, delete (a)(3)(D).

j) In Section 320.70(a), insert the following:

"4) Establishes and oversees a quality assurance program for the film processor(s). The program shall include specifications for processor cleaning and maintenance, and procedures to ensure the processor is optimized and properly maintained."

"AGENCY NOTE: The Department recommends daily sensitometry and densitometry evaluation for processors used in facilities with heavy workloads. However, the diagnostic imaging specialist or therapeutic radiological physicist is the individual best qualified to determine the appropriate quality assurance program for each processor, based on its workload and conditions of use."

k) In Section 320.70, change "Establishes and oversees" to "Establish and oversee".

l) In Section 320.70, change "processor(s)" to "processors".

m) In Section 320.70(a)(4), delete the comma after "maintenance".

n) In Section 320.70(b), change "Maintain and have available for review by the Department" to "Each operator of a Class D radiation installation shall maintain and have available for review by the Department".

o) In Section 320.70(b), insert the following:

"5) Records of film processor cleaning and maintenance.".

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will these amendments replace an emergency amendment currently in effect? No

14) Are there any amendments pending on this Part? No

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15) Summary and Purpose of Amendment: This amendment will: (1) change the statutory authority from the provisions of the Radiation Installation Act [420 ILCS 30] (being repealed by P.A. 91-0340) to the authority under Sections 24.7, 25 and 25.1 of the Radiation Protection Act of 1990 [420 ILCS 40/24.7, 25 and 25.1]; (2) change the title of the Part; (3) modify the radiation installation classifications due to statutory change; (4) create a revenue neutral consolidated annual registration fee to cover the cost to register and inspect radiation machines to replace the previous registration and inspection fees due to statutory change; and (5) establish procedures regarding the implementation of a comprehensive radiation protection program to be followed by operators of newly created Class D radiation installations.

16) Information and questions regarding these adopted amendments shall be directed to:

Robert B. Holtsclaw
Senior Staff Attorney
Department of Nuclear Safety
1035 Outer Park Drive
Springfield, Illinois 62704
(217) 524-1003 (voice)
(217) 782-6133 (TDD)

The full text of the adopted amendments begins on the next page:

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TITLE 32: ENERGY
CHAPTER II: DEPARTMENT OF NUCLEAR SAFETY
SUBCHAPTER b: RADIATION PROTECTION

PART 320
REGISTRATION AND OPERATOR REQUIREMENTS FOR ~~OF~~ ~~RADIOACTIVE MATERIAL,~~ RADIATION ~~MACHINES, AND RADIATION~~ INSTALLATIONS

Section
320.10 Registration
320.15 Incorporations by Reference (Repealed)
320.20 Amendments and Changes in Status
320.30 Discontinued Use (Repealed)
320.40 Exemptions
320.50 Noncompliance (Repealed)
320.60 Requirements for All Operators of Radiation Installations
320.70 Additional Requirements for Operators of Class D Radiation Installations

AUTHORITY: Implementing and authorized by Sections 24.7, 25 and 25.1 of the Radiation Protection Act of 1990 [420 ILCS 40/24.7, 25 and 25.1] (see P.A. 91-0340, effective July 29, 1999).

SOURCE: Filed April 20, 1974 by the Department of Public Health; transferred to the Department of Nuclear Safety by P.A. 81-1516, effective December 3, 1980; codified at 7 Ill. Reg. 11278; amended at 10 Ill. Reg. 17529, effective September 25, 1986; amended at 14 Ill. Reg. 13644, effective August 13, 1990; amended at 18 Ill. Reg. 3363, effective February 22, 1994; amended at 20 Ill. Reg. 6912, effective May 1, 1996; amended at 23 Ill. Reg. 14488, effective JAN 1 2000.

Section 320.10 Registration

a) For purposes of registration pursuant to this Part, the phrase "radiation installation" shall mean any location or facility where radiation machines are located.

b) ~~a~~ Installation Registration

1) Any operator of a radiation installation ~~facility where radiation machines are used or where radioactive material is produced, transported, stored, used or disposed of for any purpose, which is not subject to regulation by the U.S. Nuclear Regulatory Commission (NRC),~~ shall register such radiation installation with the Department of Nuclear Safety (Department). The operator shall register the installation before the installation is placed in operation on a form prescribed by the Department which shall include:

A) The operator's name;

B) The location and confines of the radiation installation; and

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C) The type, manufacturer, model, serial ~~strength and~~ number and room location ~~of sources~~ of radiation machines possessed ~~expected to be produced, used, operated, stored or disposed.~~

2) Radiation machines that are located in a single building or in a group of buildings which are contiguous to one another, and used by the same operator, shall be treated as a single radiation installation unless requested otherwise in writing by the operator and approved by the Department. ~~When the number of sources exceeds 50, the Director will, upon request of the operator, permit blanket registration of the installation. This blanket registration shall be on a form prescribed by the Department and shall include:~~

~~A) The operator's name;~~

~~B) The location and confines of the radiation installation;~~

~~C) A description of each type and range of strengths of each type of source of radiation;~~

~~D) The number of each type of source;~~

~~E) The radionuclide in each type of source; and~~

~~F) The specific information requested on form IL 473 0013 regarding registration of x ray machines.~~

c) Installation Classifications

Radiation installations shall be divided into the following 4 classes:

1) *Class A - Class A shall include dental offices and veterinary offices with radiation machines used solely for diagnosis and all installations using commercially manufactured cabinet radiographic/fluoroscopic radiation machines.* [420 ILCS 40/25(f)] Class A installations shall be inspected at intervals not exceeding 5 years.

2) *Class B - Class B shall include offices or clinics of persons licensed under the Medical Practice Act of 1987 or the Podiatric Medical Practice Act of 1987 with radiation machines used solely for diagnosis and all installations using spectroscopy radiation machines, noncommercially manufactured cabinet radiographic/fluoroscopic radiation machines, portable radiographic/fluoroscopic units, non-cabinet baggage/package fluoroscopic radiation machines and electronic beam welders.* [420 ILCS 40/25(f)] Class B installations shall be inspected at intervals not exceeding 2 years.

3) *Class C - Class C shall include installations using diffraction radiation machines, open radiography radiation machines, closed radiographic/fluoroscopic radiation machines and radiation machines used as gauges. Test booths, bays, or rooms used by manufacturing, assembly or repair facilities for testing radiation machines shall be categorized as Class C radiation installations.* [420 ILCS 40/25(f)] Class C installations shall be inspected at intervals not exceeding 1 year.

4) *Class D - Class D shall include all hospitals and other facilities using mammography, computed tomography (CT), or*

therapeutic radiation machines. [420 ILCS 40/25(f)] Class D installations shall be inspected at intervals not exceeding 1 year.

d)~~b~~ Machine Registration

1) Every operator of a radiation installation ~~where--radiation machines--are--located~~ shall register radiation ~~such~~ machines annually on a form prescribed by ~~with~~ the Department.

2) ~~Installation-operators-shall-register-radiation-machines-annually on-a-form-prescribed-by-the-Department.~~An annual registration fee ~~of-$10.00-per-radiation-machine~~ for each machine possessed on January 1 of each year shall be submitted with the registration form. This fee, based on the type of facility and radiation machines possessed, is listed in this subsection (d)(2) as follows: ~~*The--Department--shall--bill--the--operator---for---the registration---fee---as---soon--as--practical--after--January--1. Registration-fees-shall-be-due-and-payable-within-60--days--after the--date--of--billing.--If-after-60-days-the-registration-fee-is not-paid-the-Department-may-issue-an-order-directing-the-operator of-the-installation-to-cease-use-of-the--radiation--machines--for which---the---fee---is--outstanding--or--take--other--appropriate enforcement-action-as-provided-in-Section--36--of--the--Radiation Protection-Act-of-1990* [420-ILCS-40/36].-[420-ILCS-30/2.1]~~

Facility Type	Fee Per Radiation Machine
Class A - Dental and veterinary offices.	$ 21
Class A - Installations only using commercially manufactured cabinet radiation machines.	$ 26
Class B - Offices or clinics of persons licensed under the Medical Practice Act, and all installations using portable radiographic/fluoroscopic units.	$ 50
Class B - Podiatric offices.	$ 37.50
Class B - All installations using spectroscopy, non-commercially manufactured cabinet units, non-cabinet baggage/ package units, and/or electron beam welders.	$ 50
Class C - Installations using diffraction, open or closed radiography machines, x-ray gauges, and installations with test booths, bays or rooms used by manufacturing, assembly or repair facilities for testing radiation machines.	$ 90
Class D - All hospitals and other facilities using mammography, computed tomography (CT), or therapeutic radiation machines.	$ 35

3) *Radiation installations for which more than one class is applicable shall be assigned the classification requiring the most frequent inspection* [420 ILCS 40/25(f-1)] and resultant fee.

4) Radiation installation not specified as Class A, B, C or D shall be assigned an inspection interval, classification and resultant fee by the Department, based on the radiation machines' use and associated radiation hazard.

5) *The Department shall bill the operator for the registration fee as soon as practical after January 1. The registration fee shall be due and payable within 60 days after the date of billing. If after 60 days the registration fee is not paid, the Department may issue an order directing the operator of the installation to cease use of all radiation machines or take other appropriate enforcement action as provided in Section 36 of the Act. Fees collected under the Section are not refundable.* [420 ILCS 40/24.7]

(Source: Amended at 23 Ill. Reg. 14488, effective JAN 1 2000)

Section 320.15 Incorporations by Reference (Repealed)

~~All--rules,--standards--and--guidelines--of--agencies--of--the-United-States-or nationally-recognized-organizations-or-associations-that--are--incorporated--by reference--in--this--Part--are--incorporated--as--of--the-date-specified-in-the reference-and-do-not-include-any-later-amendments-or-editions.--Copies-of-these rules,-standards-and-guidelines-that-have-been-incorporated--by--reference--are available--for--public--inspection--at--the-Department-of-Nuclear-Stafety,-1035 Outer-Park-Drive,-Springfield,-Illinois.--Copies-of-the--standards--established by--the-National-Council-on-Radiation-Protection-and-Measurements-(NCRP)-can-be obtained-directly-from-NCRP--Publication,--7910--Woodmont--Avenue,--Suite--800, Bethesda-MD-20814.~~

(Source: Repealed at 23 Ill. Reg. 14488, effective

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Section 320.20 Amendments and Changes in Status

~~a) Installation registration, as specified in Section 320.10(a), shall be required only at the time the radiation installation is placed in operation unless there is a change in the number or strength of sources or of the output of energy of radiation produced in or by the installation so registered. If there is any change(s), the operator shall register such change(s), other than change due to natural radioactive decay, with the Department. Amendments to installation registration shall be on a form prescribed by the Department and shall be submitted in accordance with the following schedule:~~

~~1) For any change(s) occurring between January 1 and June 30 of a given calendar year, the amended installation registration shall be filed with the Department between July 1 and July 31 of that calendar year.~~

~~2) For any change(s) occurring between July 1 and December 31 of a given calendar year, the amended installation registration shall be filed with the Department between January 1 and January 31 of the following calendar year.~~

a)~~b)~~ Operators of radiation installations which have been registered pursuant to Section 320.10 of this Part shall notify the Department within 30 days after the installation of any new, used or relocated radiation machines, or the reactivation of any radiation machines ~~320.10(b) may amend that registration by blanket amendment on the form prescribed by the Department~~.

b) If any operator discontinues using radiation machines, the operator shall notify the Department within 30 days after such discontinuance. The notification shall include the date of discontinuance and the disposition of the radiation machines.

c) Within 30 days after changing the operator of a radiation installation, the new operator shall notify the Department.

(Source: Amended at 23 Ill. Reg. 14488, effective JAN 1 2000)

Section 320.30 Discontinued Use (Repealed)

~~If any operator discontinues using radiation machines or producing, transporting, storing, using or disposing of radioactive material, the operator shall notify the Department within 30 days after such discontinuance. The notification shall include the date of discontinuance and the disposition of such radiation machines or radioactive material.~~

(Source: Repealed at 23 Ill. Reg. 14488, effective JAN 1 2000)

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Section 320.40 Exemptions

An operator shall be exempt from the ~~these~~ installation and machine registration requirements of this Part for the following ~~in accordance with Section 3 of the Radiation Installation Act (Ill. Rev. Stat. 1991, ch. 111 1/2, par. 196) (420 ILCS 30/3) (the Act) for the following material machines and uses:~~

~~a) *Natural radioactive materials of an equivalent specific radioactivity not exceeding that of natural potassium, except when such materials are produced, stored, used, handled or disposed in such quantity or fashion that any person might receive within a week a radiation dose exceeding one tenth the maximum permissible total weekly dose for any critical organ exposed, as determined by the standards established by the National Committee on Radiation Protection.* (See Section 3(a).)~~

~~AGENCY NOTE: The name of the National Committee on Radiation Protection has been changed to the National Council on Radiation Protection and Measurements.~~

~~b) *For radioactive materials not in sealed sources in quantities less than or equal to those identified in the following table:* (See Section 3(b).)~~

Radioactive Material	~~Upper limit Kilobecquerel~~	~~Upper limit Microcurie~~	Radioactive Material	~~Upper limit Kilobecquerel~~	~~Upper limit Microcurie~~
~~Pb(210)~~	~~37~~	~~1~~	~~Po(210)~~	~~37~~	~~1~~
~~At(211)~~	~~37~~	~~1~~	~~Ra(266)~~	~~37~~	~~1~~
~~Ac(227)~~	~~37~~	~~1~~	~~U(233)~~	~~37~~	~~1~~
~~Pu(239)~~	~~37~~	~~1~~	~~Am(241)~~	~~37~~	~~1~~
~~Cm(242)~~	~~37~~	~~1~~	~~Sc(46)~~	~~370~~	~~10~~
~~Co(60)~~	~~370~~	~~10~~	~~Sr(90)~~	~~370~~	~~10~~
~~Ag(105)~~	~~370~~	~~10~~	~~Ru(106)~~	~~370~~	~~10~~
~~Te(129)~~	~~370~~	~~10~~	~~I(131)~~	~~370~~	~~10~~
~~Cs(137)~~	~~370~~	~~10~~	~~Ce(144)~~	~~370~~	~~10~~
~~Eu(154)~~	~~370~~	~~10~~	~~W(181)~~	~~370~~	~~10~~
~~Re(183)~~	~~370~~	~~10~~	~~Ir(192)~~	~~370~~	~~10~~
~~P(32)~~	~~3,700~~	~~100~~	~~Cl(36)~~	~~3,700~~	~~100~~
~~Ca(45)~~	~~3,700~~	~~100~~	~~Sc(47)~~	~~3,700~~	~~100~~
~~Sc(48)~~	~~3,700~~	~~100~~	~~V(48)~~	~~3,700~~	~~100~~
~~Fe(59)~~	~~3,700~~	~~100~~	~~Zn(65)~~	~~3,700~~	~~100~~
~~Ga(72)~~	~~3,700~~	~~100~~	~~As(76)~~	~~3,700~~	~~100~~
~~Rb(86)~~	~~3,700~~	~~100~~	~~Sr(89)~~	~~3,700~~	~~100~~
~~Y(91)~~	~~3,700~~	~~100~~	~~Nb(95)~~	~~3,700~~	~~100~~
~~Tc(96)~~	~~3,700~~	~~100~~	~~Rh(105)~~	~~3,700~~	~~100~~
~~Cd(109)~~	~~3,700~~	~~100~~	~~Ag(111)~~	~~3,700~~	~~100~~
~~Sn(113)~~	~~3,700~~	~~100~~	~~Te(127)~~	~~3,700~~	~~100~~
~~Ba(140)~~	~~3,700~~	~~100~~	~~La(140)~~	~~3,700~~	~~100~~

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Radioactive Material	Upper Limit Kilobecquerel	Upper Limit Microcurie	Radioactive Material	Upper Limit Kilobecquerel	Upper Limit Microcurie
Pr(143)	3,700	100	Sm(151)	3,700	100
Ho(166)	3,700	100	Ta(170)	3,700	100
Lu(177)	3,700	100	Tm(182)	3,700	100
Pt(191)	3,700	100	Pt(193)	3,700	100
Au(198)	3,700	100	Au(199)	3,700	100
Tl(200)	3,700	100	Tl(204)	3,700	100
Pb(203)	3,700	100	Th(234)	3,700	100
H(3)	37,000	1,000	Be(7)	37,000	1,000
C(14)	37,000	1,000	Na(24)	37,000	1,000
S(35)	37,000	1,000	K(42)	37,000	1,000
Cr(51)	37,000	1,000	Fe(55)	37,000	1,000
Mn(56)	37,000	1,000	Ni(59)	37,000	1,000
Cu(64)	37,000	1,000	Ge(71)	37,000	1,000
Mo(99)	37,000	1,000	Pd(103)	37,000	1,000
Pm(147)	37,000	1,000	Ir(190)	37,000	1,000
Au(196)	37,000	1,000	Tl(201)	37,000	1,000
Tl(202)	37,000	1,000	Natural U	37,000	1,000
Natural Th	37,000	1,000			

c) *Radioactive materials in sealed sources in total quantities not exceeding 37 MBq (one millicurie) for a given installation.* (See Section 3(c).)

d) *Timepieces, instruments, novelties, or devices containing self-luminous elements, except during the manufacture of the self-luminous elements and the production of said timepieces, instruments, novelties and except when the timepieces, instruments, novelties, or devices are stored, used, repaired, handled, or disposed in such quantity or fashion that any person might receive within a week a radiation dose exceeding one tenth the maximum permissible total weekly dose for any critical organ exposed, as determined by the standards established by the National Committee on Radiation Protection.* (See Section 3(d).)
AGENCY NOTE: The name of the National Committee on Radiation Protection has been changed to the National Council on Radiation Protection and Measurements.

a)e) Electrical equipment that is manufactured for purposes other than generation of radiation, where the generation of radiation is incidental to operation (such as a television or electron microscope). *Electrical equipment that is manufactured for purposes other than generation of radiation, where the generation of radiation is incidental to operation (such as a television), and that operates in such a manner that no person may receive within a week a radiation dose exceeding one tenth the maximum permissible total weekly dose for any critical organ exposed. Determinations of doses shall be made in accordance with the standards established by the National Committee on Radiation Protection. The production testing or production servicing of all such electrical equipment shall not be exempt from registration.* (See Section 3(e).)
AGENCY NOTE: The name of the National Committee on Radiation Protection has been changed to the National Council on Radiation Protection and Measurements.

b)f) Radiation machines while in transit or storage incident to transit. *Any radioactive material or radiation machine being transported on vessels, aircraft, railroad cars, or motor vehicles in conformity with regulations adopted by any agency having jurisdiction over safety during transportation.* (See Section 3(f).)

g) *Radiation machines, radioactive materials, and radiation installations which the Department of Nuclear Safety finds to be without radiation hazard, as determined by the standards established by the National Committee on Radiation Protection.* (See Section 3(g).)
AGENCY NOTE: The name of the National Committee on Radiation Protection has been changed to the National Council on Radiation Protection and Measurements.

(Source: Amended at 23 Ill. Reg. 14488, effective JAN 1 2000)

Section 320.50 Noncompliance (Repealed)

~~It shall be unlawful for any operator to engage in business or activities within a radiation installation without registering such installation with the Department. The Department shall report any such operator to the Attorney General for enforcement action.~~

(Source: Repealed at 23 Ill. Reg. 14488, effective JAN 1 2000)

Section 320.60 Requirements for All Operators of Radiation Installations

Operators of radiation installations shall:

a) Assure that all radiation machines are maintained and operated in accordance with standards established by the Department to protect the public health and safety as set forth in this Part and in 32 Ill. Adm. Code 310, 340, 350, 360, 370, 380, 390, 400, 401, 405 and 410.

b) Assure that all persons who use a radiation machine to administer ionizing radiation to human beings are licensed in accordance with the requirements of 32 Ill. Adm. Code 360.10, accredited by the Department or exempt from such requirements in accordance with 32 Ill. Adm. Code 401.30.

(Source: Added at 23 Ill. Reg. 14488, effective JAN 1 2000)

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Section 320.70 Additional Requirements for Operators of Class D Radiation Installations

a) Each operator of a Class D radiation installation shall utilize the services of an individual, registered with the Department pursuant to 32 Ill. Adm. Code 410, to implement and maintain a comprehensive radiation protection program. Activities related to diagnostic radiation producing machines shall be performed by a registered diagnostic imaging specialist. Activities related to therapeutic radiation machines shall be performed by a registered therapeutic radiological physicist. Each operator shall ensure that registered individuals:

1) Conduct an annual performance evaluation of all radiation machines.

2) Determine and document in a report to the facility that the radiation machines evaluated are being maintained and operated in accordance with standards established by the Department to protect the public health as set forth in 32 Ill. Adm. Code: Chapter II, Subchapters b and d. Noncompliance items shall be readily identified in the report.

3) Establish and oversee the equipment-related quality assurance practices. Specifically, these quality assurance practices shall include as a minimum:

A) For therapeutic radiation machines, compliance with the quality assurance requirements specified in 32 Ill. Adm. Code 360.110(d) or 360.120(e).

B) For computed tomography machines, compliance with the quality assurance requirements specified in 32 Ill. Adm. Code 360.75.

C) For mammography machines, compliance with the quality assurance requirements specified in 32 Ill. Adm. Code 370.100.

4) Establish and oversee a quality assurance program for the film processors. The program shall include specifications for processor cleaning and maintenance and procedures to ensure the processor is optimized and properly maintained.

AGENCY NOTE: The Department recommends daily sensitometry and densitometry evaluation for processors used in facilities with heavy workloads. However, the diagnostic imaging specialist or therapeutic radiological physicist is the individual best qualified to determine the appropriate quality assurance program for each processor, based on its workload and conditions of use.

b) Each operator of a Class D radiation installation shall maintain and have available for review by the Department:

1) Accurate and thorough radiation machine evaluation reports.

2) Records of quality assurance testing performed.

3) Records of calibrations, maintenance or repair.

4) Records of corrective action taken for items of non-compliance.

5) Records of film processor cleaning and maintenance.

c) The records and reports required by this Section shall be maintained for a period of at least 1 inspection cycle.

(Source: Added at 23 Ill. Reg. 14488, effective JAN 1 2000)

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1) Heading of the Part: Registration Requirements for Diagnostic Imaging Specialists and Therapeutic Radiological Physicists

2) Code Citation: 32 Ill. Adm. Code 410

3)

Section Number:	Adopted Action:
410.10	Amendment
410.20	Amendment
410.30	Amendment
410.35	Amendment
410.40	Repeal
410.50	Repeal
410.60	Repeal
410.65	Repeal
410.70	Repeal
410.80	Repeal

4) Statutory Authority: Implementing and authorized by the Radiation Protection Act of 1990 [420 ILCS 40] (see P.A. 91-0340, effective July 29, 1999).

5) Effective Date of Amendments: January 1, 2000

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office at 1035 Outer Park Dr., Springfield, Illinois and is available for public inspection.

9) Notice of Proposal Published in the Illinois Register: August 20, 1999 (23 Ill. Reg. 9662)

10) Has JCAR issued a Statement of Objections to these Amendments? No

11) Differences between proposal and final version:

a) In Section 410.30(e), change "$200" to "$150~~200~~".

b) In Section 410.35, change "a Department statute" to "the Radiation Protection Act of 1990 or a Department".

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will these amendments replace an emergency amendment currently in effect? No

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14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendment: This amendment will: (1) change the title of the Part; (2) delete references to the nondepartment qualified inspector program due to statutory changes; (3) establish standards and procedures to be applied by the Department to approve, register, and withdraw approval of diagnostic imaging specialists and/or therapeutic radiological physicists; and (4) repeal Sections of the rule relating to radiation inspectors and inspections that are either obsolete or being moved to other Parts.

16) Information and questions regarding these adopted amendments shall be directed to:

Robert B. Holtsclaw
Senior Staff Attorney
Department of Nuclear Safety
1035 Outer Park Drive
Springfield, Illinois 62704
(217) 524-1003 (voice)
(217) 782-6133 (TDD)

The full text of the adopted amendments begins on the next page:

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NOTICE OF ADOPTED AMENDMENT(S)

TITLE 32: ENERGY
CHAPTER II: DEPARTMENT OF NUCLEAR SAFETY
SUBCHAPTER b: RADIATION PROTECTION

PART 410
REGISTRATION REQUIREMENTS FOR DIAGNOSTIC IMAGING SPECIALISTS AND THERAPEUTIC RADIOLOGICAL PHYSICISTS ~~RADIATION INSPECTORS AND INSPECTIONS~~

Section
410.10 Policy and Scope
410.20 Education/Experience Requirements for Diagnostic Imaging Specialists and Therapeutic Radiological Physicists ~~Radiation Inspectors Education/Experience and Instrumentation Requirements~~
410.30 Approval of Application and Application/Registration Fees
410.35 Suspension and Revocation of Registration as an Approved Diagnostic Imaging Specialist or a Therapeutic Radiological Physicist ~~a Nondepartment Qualified Inspector~~
410.40 Radiation Installations and Classifications (Repealed)
410.50 Inspection Procedures (Repealed)
410.60 Choice of Type of Inspector and Inspection Schedule (Repealed)
410.65 Inspection Fees (Repealed)
410.70 Separate Installation (Repealed)
410.80 Change in Operator (Repealed)
ILLUSTRATION A New Facility Filing Anniversary Date (Class C Facility Used As An Example) (Repealed)
ILLUSTRATION B Existing Facility Filing Anniversary Date (Class B Facility Used As An Example) (Repealed)

AUTHORITY: Implementing and authorized by the Radiation Protection Act of 1990 [420 ILCS 40] (see P.A. 91-340, effective July 29, 1999).

SOURCE: Adopted at 8 Ill. Reg. 23209, effective November 19, 1984; amended at 9 Ill. Reg. 17821, effective November 5, 1985; amended at 10 Ill. Reg. 13265, effective July 29, 1986; amended at 13 Ill. Reg. 342, effective January 30, 1989; amended at 14 Ill. Reg. 13638, effective August 13, 1990; amended at 17 Ill. Reg. 17953, effective October 4, 1993; amended at 20 Ill. Reg. 9570, effective July 5, 1996; amended at 23 Ill. Reg. 332, effective December 18, 1998; amended at 23 Ill. Reg. 14501, effective JAN - 1 2000.

Section 410.10 Policy and Scope

~~a)~~ This Part implements the provisions of the Radiation Protection Act of 1990 ~~(the Act)~~ [420 ILCS 40] regarding approval and registration of individuals responsible for implementing a comprehensive radiation protection program for Class D facilities as defined in 32 Ill. Adm. Code 320. ~~the inspection of radiation machines by nondepartment qualified inspectors~~. Specifically this Part: ~~1)~~ ~~Establishes procedures for inspections of radiation machines;~~

a2) Establishes ~~the~~ standards and procedures ~~that~~ the Department will apply for approving individuals as diagnostic imaging specialists and/or therapeutic radiological physicists ~~nondepartment qualified inspectors of radiation machines~~; and

b3) Establishes standards and procedures to be applied by the Department when withdrawing its approval of a diagnostic imaging specialist and/or therapeutic radiological physicist. ~~nondepartment qualified inspector;~~ and

~~4) Establishes the Department's procedures for reviewing the inspection procedures followed by nondepartment qualified inspectors and the inspection reports prepared by nondepartment qualified inspectors.~~

~~b) This Part shall apply to any person who operates a radiation installation in Illinois. This Part shall also apply to any person, other than a Departmental inspector, who performs inspections or tests of radiation machines required by Section 25 of the Radiation Protection Act of 1990.~~

(Source: Amended at 23 Ill. Reg. 14501, effective JAN - 1 2000)

Section 410.20 Education/Experience Requirements for Diagnostic Imaging Specialists and Therapeutic Radiological Physicists ~~Radiation Inspectors Education/Experience and Instrumentation Requirements~~

a) Diagnostic imaging specialists and therapeutic radiological physicists responsible for implementing comprehensive radiation protection programs shall be ~~inspections and testing of radiation machines shall be conducted by designated Department personnel or by nondepartment qualified inspectors that are~~ approved by the Department in accordance with Section 410.30 of this Part.

b) Diagnostic Imaging Specialist. Individuals seeking approval as a diagnostic imaging specialist must possess the knowledge, training and experience to apply principles of radiological physics to diagnostic x-ray applications. Individuals seeking such approval shall meet ~~in addition to satisfying the other requirements for approval set forth in this Part, an individual seeking approval as a nondepartment qualified inspector shall meet the education/certification and experience in clinical practice requirements indicated in~~ any one of the criteria set forth in this subsection (b).

	Education and/or Certification		Experience
1)	Certification by the American Board of Radiology, American Board of Medical Physics or Canadian	and	experience included in certification.

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	College of Medical Physics, in radiological physics or, diagnostic radiological physics ~~or therapeutic radiological physics~~		
2)	Certification by the American Board of Health Physics, by the College, or one of the Boards listed in subsection (b)(1) of this Section, in Therapeutic radiological physics	and	6 months of ~~x-ray survey~~ experience in diagnostic x-ray, which shall include quality assurance and survey experience.
3)	Doctorate (Ph.D.) or Master's (MS/MA) degree in health physics, medical radiological physics or physics	and	1 year of applied x-ray radiation protection experience of which 6 months shall include ~~must be x-ray survey~~ quality assurance and survey experience in diagnostic x-ray.
4)	Bachelor's (BS/BA) degree in health physics, medical radiological physics or physics	and	2 years of applied x-ray radiation protection experience of which 6 months shall include ~~must be x-ray survey~~ quality assurance and survey experience in diagnostic x-ray.
5)	Master's (MS/MA) or Bachelor's (BS/BA) degree in physical or life science, mathematics, or other equivalent degree as determined by the Department	and	3 years of applied x-ray radiation protection experience of which 1 year ~~must be x-ray survey~~ shall include quality assurance and survey experience in diagnostic x-ray.

AGENCY NOTE: A degree that is not readily identifiable as meeting the requirements of this Part may be referred to the State Board of Higher Education for a determination of the degree classification.

c) Therapeutic Radiological Physicist. Individuals seeking approval as a therapeutic radiological physicist must possess the knowledge, training and experience to measure ionizing radiation, evaluate safety

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techniques, advise regarding radiation protection needs and apply the principles of radiological physics to clinical radiation therapy. To meet these criteria, a therapeutic radiological physicist shall meet either of the criteria set forth in this subsection (c).

	Education and/or Certification		Experience
1)	Certification by the American Board of Radiology, the American Board of Medical Physics or Canadian College of Medical Physics, in therapeutic radiological physics, roentgen ray and gamma ray physics, x-ray and radium physics, or radiological physics	and	experience included in certification.
2)	Doctorate (Ph.D.) or Master's (MS/MA) degree in physics, biophysics, radiological physics or health physics	and	1 year of full-time training in radiological physics and also 1 year of full-time work experience under the supervision of a therapeutic radiological physicist at a medical institution.

d) To meet the work experience requirements of subsection (c)(2) of this Section, the individual shall have performed the tasks specified in 32 Ill. Adm. Code 360.120(c), (d) and (e) under the supervision of an individual meeting the requirements of subsection (c) of this Section during the year of work experience.

e) An individual previously holding a designation as a diagnostic imaging specialist and/or a therapeutic radiological physicist, and previously approved by the Department as a nondepartment qualified inspector, shall remain approved as a diagnostic imaging specialist and/or therapeutic radiological physicist, unless approval is removed for cause pursuant to this Part.

~~c) Upon initial application to the Department, and as a condition for approval as a qualified inspector, an applicant shall submit verification of access to instruments which will enable the individual to perform inspections and tests in accordance with Department standards.~~

~~d) The Department may limit the fields of inspection and testing services~~

~~offered--by--an-approved-nondepartment-qualified-inspector,-based-upon the-experience-information-submitted-in-the-application.--These-fields shall--include,--but--not--be--limited--to,--industrial,--medical--and therapeutic-uses-of-x-rays.~~

~~e) individuals-approved-by--the--Department--as--nondepartment--qualified inspectors-will-continue-to-remain-approved-as-nondepartment-qualified inspectors--unless--approval--is-removed-for-cause-pursuant-to-Section 410.35-of-this-Part.~~

(Source: Amended at 23 Ill. Reg. 14501, effective JAN - 1 2000)

Section 410.30 Approval of Application and Application/Registration Fees

a) An applicant for approval by the Department as a diagnostic imaging specialist and/or therapeutic radiological physicist ~~nondepartment qualified-inspector~~ shall submit a complete and legible application on a form prescribed and furnished by the Department. Each applicant shall pay an application fee of $200 which will serve as a registration fee for the remainder of the calendar year. The application fee is non-refundable.

b) Upon initial application to the Department, and as a condition for approval as a diagnostic imaging specialist and/or a therapeutic radiological physicist, an applicant shall submit verification of access to instruments which will enable the individual to perform measurements and tests in accordance with Department standards.

c~~b~~) The Department shall provide written notification to the applicant concerning the status of the application within 4 weeks after receipt of the application and required fee. If approval is granted, the applicant shall receive a "Notice of Approval" and the individual's name and address shall be entered in the record of persons approved as diagnostic imaging specialists and/or as therapeutic radiological physicists ~~nondepartment-qualified-inspectors-of-radiation-machines.~~

d) Individuals approved by the Department as diagnostic imaging specialists and/or as therapeutic radiological physicists shall continue to remain approved unless approval is removed for cause pursuant to this Part.

e~~c~~) All approved diagnostic imaging specialists and/or therapeutic radiological physicists ~~nondepartment-qualified-inspectors~~ shall pay an annual non-refundable registration fee of ~~$200~~ $150. The fee shall be due and payable within 60 days after the date of billing. ~~payable by-January-1-of-each-year.--The-registration--fee--is--non-refundable.~~ Failure ~~of--the--inspector~~ to remit the appropriate registration fee after 60 days shall ~~by-January-1,-will~~ cause the Department to remove the individual's name from the record specified in subsection (c) ~~(b)~~ of this Section. If an individual's name is removed from this ~~the~~ record ~~of--nondepartment--qualified--inspectors~~, the Department shall ~~will~~ not accept radiation machine evaluations or the establishment and oversight of equipment-related quality assurance practices performed ~~inspection--reports--completed~~ on or after the date the individual's ~~inspector's~~ name was removed ~~from--the--record.~~ ~~Radiation--machine inspection-reports-prepared-and-submitted-after-an-individual-has-been reinstated-to-the-record-will-be-accepted-by-the-Department.~~

f~~d~~) If an individual's name has been removed from the record of approved diagnostic imaging specialists and/or therapeutic radiological physicists ~~nondepartment---qualified--inspectors~~ due solely to nonpayment of the fee prescribed in this Section, that individual's name shall be reinstated automatically ~~to-the-record-of-nondepartment qualified-inspectors~~ upon payment of and receipt by the Department of the prescribed fee.

g) If the registration of a diagnostic imaging specialist or therapeutic radiological physicist has been revoked pursuant to Section 410.35 of this Part, the Department shall consider the petition for reinstatement and the reasons for revocation before approving a new application.

(Source: Amended at 23 Ill. Reg. 14501, effective JAN - 1 2000)

Section 410.35 Suspension and Revocation of Registration as ~~a~~ an Approved Diagnostic Imaging Specialist or a Therapeutic Radiological Physicist ~~Nondepartment-Qualified-Inspector~~

a) The Department may act to ~~shall~~ suspend or revoke ~~the-registration--of~~ an individual's registration ~~individual~~ as an approved diagnostic imaging specialist and/or therapeutic radiological physicist ~~a nondepartment--qualified--inspector~~ and remove the individual's name from the record of approval ~~nondepartment-qualified-inspectors~~ for any one or a combination of the following causes:

1) Making ~~Knowingly---causing~~ a material misstatement or misrepresentation ~~to-be-made~~ in the application for approval as a diagnostic imaging specialist and/or a therapeutic radiological physicist ~~nondepartment-qualified-inspector~~ if such misstatement or misrepresentation would impair the Department's ability to assess and evaluate the applicant's qualifications for approval under this Part;

2) Evading or violating the Radiation Protection Act of 1990 or a Department regulation or order ~~Willfully-evading-the-Department's regulations~~, or ~~willfully~~ aiding another person in evading or violating a statute, regulation or order ~~such-regulations~~;

3) Exhibiting significant or repeated incompetence in the performance of evaluations ~~inspections~~ of radiation machines or the establishment and oversight of equipment-related quality assurance practices;

4) Providing ~~Knowingly-submitting~~ to the Department, or to a Class D registrant, ~~--an--inspection--report--that--contains~~ false or

misleading information in any of the records required by 32 Ill. Adm. Code 320.70; or

5) Providing ~~Submitting~~ to the Department, or to a Class D registrant, under his/her diagnostic imaging specialist and/or therapeutic radiological physicist ~~inspector~~ identification number or and signature, a radiation machine evaluation report ~~for an inspection~~ that he or she did not personally perform;

6) Failing to pay a civil penalty assessed by the Department;

7) Failing to repay an educational loan guaranteed by the Illinois Student Assistance Commission as provided in 20 ILCS 2005/71; or

8) Failing to meet child support orders as provided in 5 ILCS 100/10-65.

b) The Department may ~~shall~~ revoke the registration of an individual as an approved diagnostic imaging specialist and/or therapeutic radiological physicist ~~a--nondepartment--qualified---inspector~~ for repetitive activities initially resulting in suspension.

c) If, based upon any of the above grounds, the Department determines that action is necessary to suspend or revoke the registration of an approved diagnostic imaging specialist and/or therapeutic radiological physicist ~~a--nondepartment--qualified--inspector~~ and to remove the individual's name from the record of approved individuals ~~nondepartment--qualified-inspectors~~, the Department shall first notify the individual of the reason for its action and the proposed length of a suspension or revocation and shall provide an opportunity for a hearing in accordance with 32 Ill. Adm. Code 200 ~~200.60~~. An opportunity for a hearing shall be provided before the Department takes final action to suspend or revoke an individual's registration.

d) An individual whose registration has been suspended shall be reinstated upon completion of the duration of the suspension period.

~~e~~d) An individual whose registration has been revoked for reasons other than non-payment of fees shall have his/her name removed from the record. Such individual ~~of--nondepartment-qualified-inspectors~~ may seek reinstatement to the record by filing a petition for reinstatement and a new application with the Department. The ~~Such~~ petition and application for reinstatement may only be accepted for consideration by the Department after the specified revocation period has ended ~~1-year-or-more-after-the-individual's-name-has-been--removed from-the-record-of-nondepartment-qualified-inspectors~~. The individual shall be afforded a hearing in accordance with 32 Ill. Adm. Code 200 if such reinstatement petition and application are denied.

f) Any of the causes for suspension or revocation specified in subsections (a)(1) through (5) of this Section may also be used as the grounds for the assessment of civil penalties pursuant to Section 36 of the Radiation Protection Act of 1990.

(Source: Amended at 23 Ill. Reg. 14501, effective JAN - 1 2000)

Section 410.40 Radiation Installations and Classifications (Repealed)

~~Radiation--installations--shall--be--classified--based-on-the-type-of-radiation machines-located-within-the-installation-as-follows:~~

~~a) *Class-A---shall-include--all radiation--machines--located--in--dental offices-and-clinics-and-used-solely-for-dental-diagnosis or-located-in veterinary-offices-and-used-solely-for-diagnosis-and-all-installations using---commercially--manufactured--cabinet--radiographic/fluoroscopic radiation-machines;* [420-ILCS-40/25(f)]~~

~~b) *Class-B---shall-include-all radiation-machines,--other--than--machines used--for--performing--mammography,* located--in-offices-or-clinics-of persons-licensed-under-the-Medical-Practice--Act--of--1987--[225--ILCS 60];,--or--under--the-Podiatric-Medical-Practice-Act-of-1987-[225-ILCS 100] *and--used--solely--for--diagnosis and all--installations--using spectroscopy--radiation-machines; noncommercially manufactured-cabinet radiographic/fluoroscopic------radiation------machines;-------portable radiographic/fluoroscopic units, non-cabinet----baggage/package fluoroscopic-radiation-machines-and-electronic-beam-welders;* [420-ILCS 40/25(f)]~~

~~c) *Class--C-----shall--include--all radiation--machines--which--are--not classified-as-Class-A-or-Class-B. Class-C-shall-include--but--not--be limited--to--radiation--machines--located-in-hospitals-and-educational institutions;-all-radiation-machines-used-for--performing--mammography procedures;-therapy and-all-installations-using-diffraction-radiation machines;-----open-----radiography----radiation----machines;----closed radiographic/fluoroscopic-radiation-machines--and--radiation--machines used--as--gauges.---Test-booths; bays; or-rooms-used-by-manufacturing; assembly-or-repair-facilities-for-testing-radiation-machines-shall--be categorized-as-Class-C-radiation-installations;* [420-ILCS-40/25(f)]~~

~~Radiation--installations--utilizing--radiation--machines--that--are-in different-classes-(see-subsections-(a);-(b)-and-(c)-of--this--Section) will--be-assigned-a-classification-based-upon-the-machine(s)-requiring the-most-frequent-inspecting-and-testing.--(See-Section--410.60(d)--of this-Part.)~~

(Source: Repealed at 23 Ill. Reg. 14501, effective JAN - 1 2000)

Section 410.50 Inspection Procedures (Repealed)

~~a) The-nondepartment-qualified-inspector-shall:~~

~~1) Establish-whether-radiation-machines--are--being--maintained--and operated---in---accordance--with--standards--established--by--the Department-to-protect-the-public-health-as-set-forth-in--32--Ill. Adm.--Code--310;--320;-340;-350;-360;-380;-390;-400;-401-and-405; and~~

~~2) Consult--with--the--operator--to--ascertain---the---identity---of individuals---who---use--the--equipment--to--administer--ionizing~~

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radiation to human beings (see 32 Ill. Adm. Code 360.30(a)(4) and 360.30(i)) and to verify that those named individuals are licensed in accordance with State law, are accredited by the Department or are exempt from such requirements in accordance with 32 Ill. Adm. Code 401.30.

b) The nondepartment qualified inspector shall provide timely, accurate and thorough inspection reports and certify all survey findings on appropriate Department radiation machine inspection forms.

c) The nondepartment qualified inspector shall perform radiation measurements with instruments which are sufficiently sensitive to determine compliance with the standards established by the Department under this section. These instruments shall be calibrated with devices which have no more than a three step (tertiary) calibration, traceable to the National Institute of Standards and Technology.

d) The nondepartment qualified inspector shall certify on each radiation inspection report that he/she prepares for submission to the Department that he/she personally performed the inspection and that the inspection was performed in accordance with the standards established by the Department.

e) The nondepartment qualified inspector shall certify on appropriate Department radiation machine inspection forms for each inspection that his/her instruments have been properly calibrated at intervals not to exceed 12 months prior to each inspection.

f) The nondepartment qualified inspector shall maintain, for a period of at least one inspection cycle (see Section 410.60(d) of this Part), a copy of all inspection data gathered during inspections of radiation machines conducted in accordance with subsection (a) of this Section.

g) Each operator of a radiation installation shall, within 30 days of completion of the inspection and testing of each radiation machine by a nondepartment qualified inspector, forward a clear, legible copy of the inspection report to the Department.

h) In the event the Department has reason to question the accuracy or thoroughness of a radiation machine inspection report due to the submission of incomplete or contradictory information or, if the Department is not able to verify compliance with the Department's standards for operating such equipment in accordance with 32 Ill. Adm. Code 310, 320, 340, 350, 360, 380, 390, 400, 401 and 405, the report will be returned to the operator for completion, correction or for reinspection as appropriate. Forms returned to the operator for corrections or completion, or for reinspection must be returned to the Department within 30 days of receipt.

i) Within 30 days of receipt of a completed radiation machine inspection report, the Department will provide results to the operator regarding the inspector's survey.

j) Reviews of nondepartment qualified inspectors' survey findings and inspection procedures will be conducted by the Department. Items and procedures considered as part of such reviews shall include, but need not be limited to, one or more of the following:

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1) The type of instruments used by the inspector;

2) The procedures for the use of these instruments to determine compliance with Department standards;

3) The thoroughness and accuracy of inspection reports;

4) Use of other documents and investigative procedures to assure compliance with Department standards listed in subsection (a) of this Section;

5) Reinspection and testing by the Department of the radiation machines, records, and associated operation procedures of a radiation installation that were inspected by a nondepartment qualified inspector; and

6) Visual observation of the nondepartment qualified inspector during the performance of an inspection.

(Source: Repealed at 23 Ill. Reg. 14501, effective JAN - 1 2000)

Section 410.60 Choice of Type of Inspector and Inspection Schedule (Repealed)

a) Operators of radiation installations shall assure that the installations, including all radiation machines located therein, are registered with the Department in accordance with the provisions of 32 Ill. Adm. Code 320 and are inspected and tested in accordance with the requirements of this Part.

b) Operators of radiation installations may elect to have their radiation machines and associated operating procedures inspected and tested by either a Departmental inspector or by a nondepartment qualified inspector whose name is included in the Department's record of persons approved as nondepartment qualified inspectors of radiation machines. However, radiation machines used for mammography shall be inspected by the Department pursuant to 32 Ill. Adm. Code 370.

c) Operators of radiation installations shall assure that all radiation machines located in that installation are maintained and operated in accordance with standards established by the Department to protect the public health and safety as set forth in 32 Ill. Adm. Code 310, 320, 340, 350, 360, 370, 380, 390, 400, 401 and 405. Operators shall also assure that all persons who use a radiation machine to administer ionizing radiation to human beings are licensed in accordance with the requirements of 32 Ill. Adm. Code 360.10, or are accredited by the Department, or exempt from such requirements in accordance with 32 Ill. Adm. Code 401.30.

d) Inspection Report Filing Anniversary Date

1) Each radiation machine shall be inspected and tested within 6 months after the date of initial installation. The inspection and testing end date will establish the operator's filing anniversary date for filing subsequent radiation machine inspection reports. All future inspection and testing of the operator's radiation machine(s) must be performed and the

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radiation inspection report filed either on the filing anniversary date or within the 5-month period immediately preceding the operator's filing anniversary date. Submission of inspection reports within the 5-month period immediately preceding the operator's filing anniversary date will not change the filing anniversary date for subsequent inspection reports.

2) If any radiation machine is installed, relocated (i.e., stationary equipment that has been moved) or reactivated within 7 months prior to the operator's inspection report filing anniversary date and if the machine is inspected during the 7-month period, the radiation machine(s) does not have to be reinspected within the 5-month period prescribed in subsection (d)(1) of this Section.

3) If any radiation machine(s) totally replaces the operator's radiation machine inventory, the operator's inspection report filing anniversary date will be changed to the end date of the inspection and testing of the radiation machine(s).

e) Radiation installations shall be inspected on the following schedule:

1) Class A installations shall be inspected at intervals not exceeding 5 years.

2) Class B installations shall be inspected at intervals not exceeding 2 years.

3) Class C installations shall be inspected at intervals not exceeding 1 year.

f) Operators of radiation installations shall notify the Department within 30 days after the installation of new, used, relocated, or reactivated radiation machines. Inspection and testing of the radiation machine(s) shall be performed in accordance with subsection (d) of this Section and radiation inspection report(s) filed with the Department within 6 months after the date of installation/activation of the system(s). The selection of Departmental or nondepartment qualified inspector which was made pursuant to subsection (b) of this Section, shall also apply to inspections of equipment required by this subsection (f), unless the Department is notified that a change is requested. This Section applies to the relocation or reactivation of a radiation machine(s) that previously had been stored or rendered mechanically or electrically inoperable by the operator.

(Source: Repealed at 23 Ill. Reg. 14501, effective JAN - 1 2000)

Section 410.65 Inspection Fees (Repealed)

a) The annualized fee for inspection and testing shall be based on the rate of $55 per radiation machine for machines located in dental offices and clinics and used solely for dental diagnosis, located in veterinary offices and used solely for diagnosis, or located in offices and clinics of persons licensed under the Podiatric Medical Practice Act of 1987 and shall be based on the rate of $80 per radiation machine for all other radiation machines. [420-IDCS 40/25(a)]

b) If the operator elects to have a nondepartment qualified inspector inspect and test the radiation equipment, the annualized inspection review fee shall be based on the rate of $25 per radiation machine. This inspection review fee shall not apply to inspections of radiation machines used for mammography. [420-IDCS-40/25(b)]

c) The Department shall bill the operator as soon as practical after January 1 for the appropriate fee.

1) Fees assessed under this Section *shall be due within 60 days of billing.* [420-IDCS-40/25(a)]

2) If the fee is not paid within 60 days of the initial billing, the Department may order the operator of the installation to cease use of the machines for which the fee is outstanding or take other appropriate enforcement action as provided in Section 36 of the Act. [420-IDCS-40/25(a)]

(Source: Repealed at 23 Ill. Reg. 14501, effective JAN - 1 2000)

Section 410.70 Separate Installation (Repealed)

Radiation installations shall be defined as any location or facility where radiation machines are used. For purposes of registration and inspection frequency, the Department shall interpret "radiation installation" as follows:

a) A facility where one or more radiation machines which are utilized by a given Class as defined in Section 410.40 of this Part are operated by the same person and are located either in a single building or in a group of buildings which are contiguous to one another will be treated as a single radiation installation, except as provided in subsection (b) of this Section.

b) If the Department is treating radiation machines which are located in different buildings as being part of a single radiation installation in accordance with subsection (a) of this Section and the operator seeks to have the facilities treated as separate installations, the Department will consider the facilities as separate radiation installations upon receipt of a written request of the operator.

(Source: Repealed at 23 Ill. Reg. 14501, effective JAN - 1 2000)

Section 410.80 Change in Operator (Repealed)

Within 30 days after changing the operator of a radiation installation, the new operator must notify the Department in writing, or by telephone or other electronic means.

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1) Heading of the Part: Use of X-rays in the Healing Arts including Medical, Dental, Podiatry, and Veterinary Medicine

2) Code Citation: 32 Ill. Adm. Code 360

3)

Section Number:	Adopted Action:
360.20	Amendment
360.30	Amendment
360.41	Amendment
360.50	Amendment
360.60	Amendment
360.71	Repeal
360.75	Amendment
Appendix B	Repeal
Appendix C	Repeal
Illustration A	Repeal
Table A	Repeal

4) Statutory Authority: Implementing and authorized by the Radiation Protection Act of 1990 [420 ILCS 40].

5) Effective Date of Amendments: January 1, 2000

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office at 1035 Outer Park Dr., Springfield, Illinois and is available for public inspection.

9) Notice of Proposal Published in the Illinois Register: August 20, 1999 (23 Ill. Reg. 9689)

10) Has JCAR issued a Statement of Objection to these Amendments? No

11) Differences between proposal and final version:

a) In Section 360.50(g)(4)(C), change "a 0.25 centimeter thick copper phantom" to "a 2.5 millimeter thick sheet of copper".

b) In Section 360.50(g)(4)(C), AGENCY NOTE, change "a 0.25 centimeter thick copper phantom" to "a 2.5 millimeter thick sheet of copper.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? No agreement letter was issued by JCAR regarding this rulemaking.

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13) Will these amendments replace an emergency amendment currently in effect?
No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendment: This amendment will delete or amend some of the definitions in Section 360.20 since they are no longer required or are in need of clarification. Section 360.50 is being modified to clarify the Department's intent regarding operator restrictions in the use of fluoroscopic radiation machines. Sections 360.30, 360.41, 360.60 and 360.75 are being amended to clarify diagnostic x-ray system requirements and to delete language that has been incorporated into other Department rules. Section 360.71, Appendix B and C, Illustration A and Table A of this Part are obsolete due to the adoption of 32 Ill. Adm. Code 370 and are, therefore, being repealed by the Department.

16) Information and questions regarding these adopted amendments shall be directed to:

Robert B. Holtsclaw
Senior Staff Attorney
Department of Nuclear Safety
1035 Outer Park Drive
Springfield, Illinois 62704
(217) 524-1003 (voice)
(217) 782-6133 (TDD)

The full text of the adopted amendments begins on the next page:

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TITLE 32: ENERGY
CHAPTER II: DEPARTMENT OF NUCLEAR SAFETY
SUBCHAPTER b: RADIATION PROTECTION

PART 360
USE OF X-RAYS IN THE HEALING ARTS INCLUDING MEDICAL, DENTAL, PODIATRY, AND VETERINARY MEDICINE

Section
360.10 Scope
360.20 Definitions
360.30 General Requirements and Administrative Controls
360.40 General Equipment and Operation Requirements for Diagnostic X-Ray Systems
360.41 Additional Requirements for Use of Diagnostic X-Ray Systems in the Healing Arts of Medicine, Podiatry and Chiropractic
360.50 Fluoroscopic Systems
360.60 Radiographic Systems Other Than Fluoroscopic, Dental, Veterinary or Computed Tomography Systems
360.70 Mobile/Portable Radiographic Systems Other Than Systems Used Solely for Mammography (Repealed)
360.71 Additional Requirements for Facilities Performing Mammography (Repealed)
360.75 Computed Tomography (CT) Systems
360.80 Photofluorographic Systems (Repealed)
360.90 Dental Radiographic Systems
360.100 Veterinary Radiographic Systems
360.110 Therapy Systems Operating Below 1 MeV
360.120 Therapy Systems Operating at 1 MeV or Greater

APPENDIX A Medical Radiographic Entrance Exposure Measurement Protocol
APPENDIX B Mammography Dose Measurement Protocol (Repealed)
APPENDIX C Mammography Phantom Image Evaluation (Repealed)
APPENDIX D Computed Tomography Dose Measurement Protocol
APPENDIX E Minimum Quality Control Program for Medical Accelerators

ILLUSTRATION A Thimble and Pancake Chamber-Radiation Measuring Devices (Repealed)
ILLUSTRATION B Mammography Dose Evaluation Graph (Repealed)

TABLE A Mammography Dose Evaluation Table (Repealed)
TABLE B Half-Value Layer as a Function of Tube Potential
TABLE C Entrance Exposure Limits Per Intraoral Bitewing Film (Repealed)

AUTHORITY: Implementing and authorized by the Radiation Protection Act of 1990 [420 ILCS 40].

SOURCE: Filed April 20, 1974 by the Department of Public Health; old rules repealed, new rules adopted at 4 Ill. Reg. 25, p. 157, effective July 1, 1980;

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transferred to the Department of Nuclear Safety by P.A. 81-1516, effective December 3, 1980; codified at 7 Ill. Reg. 16406; amended at 10 Ill. Reg. 13271, effective July 28, 1986; amended at 13 Ill. Reg. 803, effective April 1, 1989; amended at 15 Ill. Reg. 6180, effective April 16, 1991; amended at 17 Ill. Reg. 17972, effective October 15, 1993; amended at 18 Ill. Reg. 11524, effective July 11, 1994; emergency amendment adopted at 19 Ill. Reg. 273, effective December 30, 1994, for a maximum of 150 days; emergency expired May 30, 1995; amended at 19 Ill. Reg. 8284, effective June 12, 1995; amended at 22 Ill. Reg. 5904, effective March 13, 1998; amended at 23 Ill. Reg. 14516, effective JAN - 1 2000.

NOTE: In this Part, unless the context clearly indicates otherwise, superscript numbers or letters are denoted by parentheses; subscript are denoted by brackets.

Section 360.20 Definitions

As used in this Part, the following definitions apply:

"Accelerator" (also "particle accelerator") means any therapeutic machine capable of producing a useful beam of x-rays or charged particles with energies of 1 MeV or greater. Accelerators include cyclotrons, betatrons and linear accelerators.

"Accelerator facility" means the location at which one or more particle accelerators are installed and are operated under the same administrative control.

"Aluminum equivalent" means the thickness of type 1100 aluminum alloy affording the same attenuation, under specified conditions, as the material in question. The nominal chemical composition of type 1100 aluminum alloy is 99.00 percent minimum aluminum, 0.12 percent copper.

"Applicator" means a structure which determines the extent of the treatment field at a given distance from the source of the beam.

"Attenuation block" means a block or stack, having dimensions 20 centimeters by 20 centimeters by 3.8 centimeters, of aluminum equivalent. Copper may be substituted for aluminum if an appropriate thickness is used for the kVp selected, as indicated below:

kVp	Millimeters of Copper Equivalent to 3.8 centimeters of aluminum
99 or less	2.0
100 to 125	2.5
greater than 125	3.0

"Automatic exposure control" means a device which automatically

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controls one or more technique factors in order to obtain at a preselected location(s) a required quantity of radiation (see "Phototimer").

"Barrier" (see "Protective barrier").

"Beam" means a flow of electromagnetic or particulate radiation which passes through the opening in the beam limiting device and which is used for diagnosis or treatment.

"Beam axis" (see "Central axis of the beam").

"Beam-limiting device" means a device which provides a means to restrict the dimensions of the x-ray field (see "Collimator", "Diaphragm" and "Shutter").

"Beam monitoring system" means a system of devices that will monitor the useful beam during irradiation and will terminate irradiation when a preselected number of monitor units has been accumulated.

"Beam scattering filter" means a filter placed in an electron beam in order to scatter the beam and provide a more uniform distribution of electrons in the beam.

"Central axis of the beam" means the line passing through the source of the beam and the center of the plane formed by the edge of the first beam-limiting device.

"Charged particle beam" (see "Beam").

"Coefficient of variation" means the ratio of the standard deviation to the mean value of a population of observations.

"Collimator" means a device or mechanism by which the x-ray beam is restricted in size (see "Beam-limiting device").

"Computed tomography (CT)" means the production of a tomogram by the acquisition and computer processing of x-ray transmission data.

"Computed tomography dose index (CTDI)" means the integral of the dose profile along a line perpendicular to the tomographic plane divided by the product of the nominal tomographic section thickness and the number of tomograms produced in a single scan.

"Contact therapy system" means an x-ray system used for therapy which is designed for very short treatment distances (5 centimeters or less), usually employing peak tube potentials in the range of 20 to 50 kVp.

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"Control panel" means that part or parts of the x-ray system upon which are mounted the switches, knobs, pushbuttons and other hardware necessary for setting the technique factors prior to initiating an x-ray exposure.

"CT gantry" means the tube housing assemblies, beam-limiting devices, detectors and the supporting structures and frames which hold these components.

"Dead-man switch" means a switch constructed so that a circuit-closing contact can be maintained only by continuous pressure on the switch by the operator.

~~"Densitometer"--means-a-device-which-is-used-to-provide-a-quantitative measurement-of-the-optical-density-of--x-ray--film--to--determine--the response-of-the-film-to-exposure-and-development.~~

"Diagnostic imaging specialist" means a person who possesses the knowledge, training and experience to apply the principles of radiological physics to diagnostic x-ray applications. The diagnostic imaging specialist shall be approved and registered by the Department pursuant to 32 Ill. Adm. Code 410. ~~A--diagnostic--imaging--specialist shall-meet-one-of-the-two-criteria-below:~~

~~Be--certified--by--the--American-Board-of-Radiology,-the-American Board-of-Medical-Physics--or--the--Canadian--College--of--Medical Physics-in:~~

~~Diagnostic-radiological-physics;-or~~
~~Radiological-physics.~~

~~Be--approved--by--the--Department--as--a--nondepartment-qualified inspector-pursuant-to-the-provisions-of-32-Ill.-Adm.-Code-410.30, and:~~

~~Have-3-years-of-experience-performing-radiation-measurements and-quality-assurance-duties-in-mammography-and/or--computed tomography;-or~~

~~Have-2-years-of-experience-performing-radiation-measurements and--quality-assurance-duties-in-mammography-and/or-computed tomography-and-have-undertaken--a--training--program--of--at least---40---hours--that--includes--instruction--in--quality assurance-procedures-and-the-requirements-of-this-Part.~~

~~To-qualify-as-a-diagnostic-imaging-specialist-in-mammography and/or--computed--tomography,--the--nondepartment--qualified inspector's-experience-shall-have-been-obtained-in-the--same~~

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~~field-for-which-approval-is-sought.~~

"Diagnostic source assembly" means an x-ray tube housing assembly, designed for use in diagnostic x-ray applications, with a beam-limiting device attached.

"Diaphragm" means a device or mechanism by which the x-ray beam is restricted in size (see "Beam-limiting device").

"Direct supervision" means an individual is in the physical presence of a licensed practitioner who assists, evaluates and approves of the individual's performance of the various tasks involved in the application of ionizing radiation.

"Field flattening filter" means a filter used to provide dose uniformity over the area of a useful beam of x-rays at a specified depth.

"Filter" means material placed in the useful beam to absorb, preferentially, radiations based on energy level or to modify the spatial distribution of the beam.

"Gantry" means that part of the system supporting and allowing possible movements of the radiation head.

"General purpose x-ray system" means any radiographic x-ray system which, by design, is not limited to radiographic examination of specific anatomical regions.

"Gonad shield" means a protective device for the testes or ovaries which provides a minimum of 0.5 millimeter lead equivalent protection.

"Half-value layer (HVL)" means the thickness of a specified material that attenuates the beam of radiation to an extent such that the exposure rate is reduced to one-half of its original value.
AGENCY NOTE: The contribution of all scattered radiation, other than any that might be present initially in the beam concerned, should be minimized.

"Healing arts screening" means the examination of human beings using x-ray machines for the detection or evaluation of potential diseases when such examinations are not specifically ordered by a licensed practitioner of the healing arts legally authorized to prescribe such x-ray examinations for the purpose of diagnosis or treatment. However, healing arts screening does not include mammography on self-referred patients.

"Image intensifier" means a device, installed in a housing, which

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converts an x-ray pattern into a corresponding light image, usually by electronic means.

"Image receptor" means any device, such as a fluorescent screen or radiographic film, which transforms incident x-ray photons either into a visible image or into another form which can be made into a visible image by further transformations.

"Interlock" means a device arranged or connected such that the occurrence of an event or condition is required before a second event or condition can occur or continue to occur.

"Isocenter" means a fixed point in space located at the center of the smallest sphere through which the central axis of the useful beam passes at any beam orientation.

"Kilovolts peak (kVp)" means the crest value, in kilovolts, of the electric potential applied to the x-ray tube between the cathode and anode of a pulsating electric potential generator.

"Lead equivalent" means the thickness of lead affording the same attenuation, under specified conditions, as the material in question.

"Leakage radiation" means all radiation emanating from the diagnostic source assembly except for:

The useful beam; and

The radiation produced when the exposure switch or timer is not activated.

"Leakage technique factors" means the technique factors used to measure leakage radiation from the diagnostic source assembly. They are defined as follows:

For capacitor energy storage equipment, the maximum-rated peak tube potential and the maximum-rated number of exposures in 1 hour for operation at the maximum-rated peak tube potential with the quantity of charge per exposure being 10 millicoulombs, i.e. 10 milliampere-seconds, or the minimum obtainable from the unit, whichever is larger.

For field emission equipment rated for pulsed operation, the maximum-rated peak tube potential and the maximum-rated number of x-ray pulses in 1 hour for operation at the maximum-rated peak tube potential.

For all other equipment, the maximum-rated peak tube potential and the maximum-rated continuous tube current for the maximum-rated peak tube potential.

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"Light field" means that area of the intersection of the light beam from the beam-limiting device and any one of the sets of planes parallel to and including the plane of the image receptor. The edge of the light field is defined as the locus of points at which the illumination is 25 percent of that at the center of the light field.

~~"Mammography" means radiography of the breast for the purpose of enabling a physician to determine the presence, size, location and extent of cancerous or potentially cancerous tissue in the breast.~~

~~"Mammography phantom" means a phantom specifically designed for image quality evaluation of mammography systems and which may also be used in the process of determining the mean glandular breast dose. It shall be any phantom material that is equivalent to a nominal 4.2 centimeter compressed breast of average density (i.e., 50 percent adipose and 50 percent glandular tissue), and shall contain masses, specks and fibers as specified in Section 360.71(j)(2) of this Part.~~

~~"Mammography system" means an x-ray system that is used to perform mammography.~~

"Medical radiographer" means a person other than a licensed practitioner, accredited in accordance with the provisions of 32 Ill. Adm. Code 401, or an individual exempt from the provisions of 32 Ill. Adm. Code 401, who performs medical radiation procedures and applies x-radiation, to any part of the human body, for diagnostic purposes while under the supervision of a licensed practitioner.

"Mobile equipment" (see "X-ray equipment").

"Monitor unit" means a unit response from the beam monitoring system from which the absorbed dose can be calculated.

"Moving beam therapy" means radiation therapy in which there is displacement of the useful beam relative to the patient. Moving beam therapy includes arc therapy, skip therapy and rotational beam therapy.

"Multiple scan average dose (MSAD)" means the average dose at the center of a series of scans, specified at the center of the axis of rotation of a computed tomography system.

"Operator" means an individual who applies ionizing radiation for diagnostic or therapeutic purposes.

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"Phototimer" means a method for controlling radiation exposures to image receptors by the amount of radiation which reaches a radiation monitoring device(s). The radiation monitoring device(s) is part of an electronic circuit which controls the duration of time the tube is activated (see "Automatic exposure control").

~~"Physicist" (see "Therapeutic radiological physicist").~~

"Portable equipment" (see "X-ray equipment").

"Position indicating device" means a device on intraoral dental x-ray equipment used to indicate the beam position and to establish a definite source-skin distance.

"Primary protective barrier" (see "Protective barrier").

"Protective apron" means an apron of radiation absorbing materials, at least 0.25 millimeter lead equivalent, used to reduce exposure from leakage and scatter radiation.

"Protective barrier" means a barrier of radiation absorbing material(s) used to reduce radiation dose. The types of protective barriers are as follows:

"Primary protective barrier" means the material, excluding filters, placed in the useful beam to reduce the radiation dose.

"Secondary protective barrier" means a barrier sufficient to attenuate the leakage and scatter radiation to the required degree.

"Protective glove" means a glove made of radiation absorbing materials, at least 0.25 millimeter lead equivalent, used to reduce dose from leakage and scatter radiation.

"Radiation beam" (see "Beam").

"Radiation therapy simulation system" means a radiographic/fluoroscopic x-ray system used exclusively for localizing the volume to be exposed during radiation therapy and confirming the position and size of thehe therapeutic irradiation field.

~~"Radiologist" means a physician or veterinarian who is either:~~

~~Certified by the American Board of Radiology in diagnostic radiology or general radiology;~~

~~Certified by the American Osteopathic Board of Radiology;~~

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~~Certified by the American Chiropractic Board of Radiology;~~

~~Certified by the American College of Veterinary Radiology; or~~

~~Eligible for certification by any College or Board identified above.~~

"Reference plane" means a plane which is displaced from and parallel to the tomographic plane.

"Scan" means the complete process of collecting x-ray transmission data for the production of a tomogram. Data can be collected simultaneously during a single scan for the production of one or more tomograms.

"Scan increment" means the amount of relative displacement of the patient support device with respect to the CT x-ray system between successive scans measured along the direction of such displacement.

"Scatter radiation" means radiation that, during passage through matter, has been deviated in direction.

"Secondary protective barrier" (see "Protective barrier").

~~"Sensitometer" means a device which is used to test the setup and stability of film processing procedures and equipment by providing a standard pattern of light exposure of x-ray film.~~

"Shadow tray" means a device attached to the radiation head to support auxiliary beam-limiting material.

"Shutter" means an adjustable beam-limiting or attenuating device, usually made of lead, fixed to an x-ray tube housing to intercept or collimate the useful beam (see "Beam-limiting device").

"SID" means source-image receptor distance (see "Source-image receptor distance").

"Source" means the focal spot of the x-ray tube.

"Source-image receptor distance" means the distance from the source to the center of the input surface of the image receptor.

"Source to skin distance (SSD)" means the distance measured along the central ray from the center of the front surface of the x-ray focal spot to the surface of the irradiated object.

"Special purpose x-ray system" means any radiographic x-ray system

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which, by design, is limited to radiographic examination of a specific anatomical region, or to the extremities collectively.

"Spot film" means a radiograph which is made during a fluoroscopic examination to permanently record conditions which exist during that fluoroscopic procedure.

"Stationary beam therapy" means radiation therapy in which there is no displacement of the useful beam relative to the patient during irradiation.

"Stationary equipment" (see "X-ray equipment").

"Supervision" means responsibility for and control of quality, radiation safety and protection, and technical aspects of the application of ionizing radiation to human beings for diagnostic and/or therapeutic purposes.

"Technique factors" means the electrical potential (kilovolts), current (milliamperes), exposure time parameters (seconds or pulses) or a combination thereof, selectable at the control panel of an x-ray system (see "Control panel").

"Therapeutic radiological physicist" means an individual who has the knowledge, training and experience to measure ionizing radiation, evaluate safety techniques, advise regarding radiation protection needs and apply the principles of radiological physics to clinical radiation therapy. The therapeutic radiological physicist shall be approved and registered by the Department pursuant to 32 Ill. Adm. Code 410. ~~To meet these criteria, a therapeutic radiological physicist shall:~~

~~Be certified by the American Board of Radiology, the American Board of Medical Physics or the Canadian College of Medical Physics in:~~

~~Therapeutic radiological physics; or~~

~~Roentgen ray and gamma ray physics; or~~

~~X ray and radium physics; or~~

~~Radiological physics; or~~

~~Hold a master's degree or doctorate in physics, biophysics, radiological physics or health physics and have completed 1 year of full time training in radiological physics and also 1 year of full time work experience under the supervision of a therapeutic radiological physicist at a medical institution. To meet this requirement, the individual shall have performed the tasks specified in Section 360.120(c), (d) and (e) of this Part under the supervision of a therapeutic radiological physicist during the year of work experience.~~

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"Tomogram" means the depiction of the x-ray attenuation properties of a section through the body.

"Tomographic plane" means that geometric plane which is identified as corresponding to the output tomogram.

"Tomographic section" means the volume of an object whose x-ray attenuation properties are imaged in a tomogram.

"Useful beam" (see "Beam").

"X-ray equipment" means an x-ray system, sub-system or component thereof. Types of x-ray equipment are as follows:

"Mobile x-ray equipment" means x-ray equipment mounted on a permanent base with wheels and/or casters for moving while completely assembled. Mobile x-ray equipment includes x-ray equipment permanently mounted in vehicles.

"Portable x-ray equipment" means x-ray equipment designed to be hand-carried.

"Stationary x-ray equipment" means x-ray equipment which is installed in a fixed location.

"X-ray field" means, for diagnostic purposes, that area of the intersection of the useful beam and any one of the set of planes parallel to and including the plane of the image receptor. The edge of the x-ray field is defined as the locus of points at which the exposure is 25 percent of that at the center of the x-ray field.

"X-ray system" means an assemblage of components for the controlled production of x-rays. It includes minimally an x-ray high-voltage generator, an x-ray control panel, an x-ray tube housing assembly, a beam-limiting devices and the necessary supporting structures. Additional components which function with the system are considered integral parts of the system. X-ray systems include diagnostic systems, therapeutic systems and accelerator systems.

(Source: Amended at 23 Ill. Reg. 14516, effective JAN - 1 2000)

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Section 360.30 General Requirements and Administrative Controls

The requirements in this Section apply to all uses of x-rays in veterinary medicine and to all uses of x-rays in the healing arts including the use of x-rays for both diagnostic and therapeutic purposes. Additional requirements for all diagnostic x-ray systems are in Section 360.40 of this Part and specific equipment application classes are contained in Sections 360.41 through 360.100 of this Part. For therapeutic x-ray systems also see Sections 360.110 and 360.120 of this Part.

a) Registrant. The registrant shall:
   1) Direct the operation of the x-ray system(s);
   2) Register with the Department, in accordance with the provisions of 32 Ill. Adm. Code 320, all x-ray equipment which is used at the facility and all portable or mobile x-ray equipment used by the registrant;
   ~~3) Submit an application for inspection of radiation machines to the Department in accordance with 32 Ill. Adm. Code 410 and, if the inspection is performed by a nondepartment qualified inspector, submit the radiation inspection report to the Department;~~
   3) Verify that each individual required to be accredited by 32 Ill. Adm. Code 401 to apply x-rays for either diagnostic or therapeutic purposes is properly accredited with the Department prior to allowing the individual to apply medical radiation procedures on human beings;
   4) Permit operation of the x-ray system(s) only by individuals who are licensed in accordance with State law (see Section 360.10(a) of this Part), or who are accredited by the Department pursuant to 32 Ill. Adm. Code 401 or who are exempt from such requirements in accordance with the provisions of 32 Ill. Adm. Code 401.

b) Shielding. Each installation shall be provided with such primary barriers and/or secondary barriers as are necessary to assure compliance with the provisions of 32 Ill. Adm. Code 340.210, 340.270, 340.280 and 340.310.

c) An x-ray system which does not meet the provisions of this Part shall not be operated for diagnostic or therapeutic purposes.

d) If an x-ray system is identified as not being in compliance with the provisions of this Part and if that system is accessible for use, it shall be rendered inoperable (i.e., dismantle the x-ray source from the source support assembly) if so ordered by the Director.

e) Prohibitions
   1) Unauthorized Exposure. Individuals shall not be exposed to the useful beam except for healing arts purposes and only when such exposure has been authorized by a licensed practitioner of the healing arts. This provision specifically prohibits deliberate exposure for the following purposes:
      A) Exposure of individuals for training, demonstration or other non-healing arts purposes.
      B) Exposure of individuals for the purpose of "healing arts screening" (see Section 360.20 of this Part).
   2) Fluoroscopy shall not be used as a substitute for radiography or in lieu of proper anatomical positioning/centering procedures prior to radiographic studies.
   3) Fluoroscopic equipment using phosphorescent screens shall not be used. Image intensification shall be utilized on all fluoroscopic equipment.
   4) The use of direct exposure x-ray film (without intensifying screens) for routine diagnostic radiological imaging procedures, other than intraoral dental radiography and therapeutic portal imaging, is prohibited.
      AGENCY NOTE: Therapeutic portal imaging is a technique used in radiation therapy to verify correct alignment of therapy beams with the patient's anatomy.
   5) The use of photofluorographic systems is prohibited.
      AGENCY NOTE: Photofluorography is frequently called mass miniature radiography. In this technique the image of a fluorescent screen is recorded on film by means of a camera.

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f) Individual Monitoring and Reporting Requirements. All persons who are associated with the operation of an x-ray system are subject to the radiation dose standards, requirements for the determination of the doses, requirements for individual monitoring and requirements for reporting of radiation doses which are contained in 32 Ill. Adm. Code 340.

g) The registrant shall comply with the requirements of the Department's rules entitled, Notices, Instructions and Reports to Workers; Inspections, 32 Ill. Adm. Code 400.

h) Records and Associated Information. The registrant shall maintain at the facility, for a period of at least one inspection cycle (see 32 Ill. Adm. Code 320.10(c) ~~410.60(d)~~), records showing the receipt, transfer, storage and disposal of all sources of radiation in accordance with the provisions of 32 Ill. Adm. Code 310 and 320.

i) Staff Qualifications. The registrant shall maintain at the facility, for review by the Department, current certificates of accreditation (clear, legible copies are acceptable), issued by the Department in accordance with the provisions of 32 Ill. Adm. Code 401, for all individuals who are required to be so accredited.

j) Radiation Safety Procedures. The registrant shall provide to each individual who operates x-ray equipment at the facility written operating and safety procedures. These procedures shall include restrictions required for the safe operation of each radiation machine and shall include the topics listed in the radiation safety program of subsection (k) of this Section.

k) Radiation Safety Program. The registrant shall provide for initial and annual in-service training in radiation safety for individuals (excluding licensed practitioners) that apply ionizing radiation at the facility, to ensure their awareness of the registrant's radiation safety practices and policies. The in-service training shall include

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the following topics:

1) Operating and emergency procedures for the radiation machine(s);
2) Use of personnel and patient protective devices;
3) Procedures to minimize patient and occupational doses, including procedures for selecting personnel to support patients or film, as required by Section 360.40 of this Part;
4) Use of individual monitoring devices (if such devices are used at the facility);
5) Film processing procedures; and
6) Prohibited uses of x-ray machines, as described in subsection (e) of this Section.

l) Operator Training. Individuals who operate radiation machines shall be instructed in and able to demonstrate competence with the registrant's operating and safety procedures.

(Source: Amended at 23 Ill. Reg. 14516, effective JAN - 1 2000)

Section 360.41 Additional Requirements for Use of Diagnostic X-Ray Systems in the Healing Arts of Medicine, Podiatry and Chiropractic

a) Viewing System. Windows, mirrors, closed circuit television or an equivalent system shall be provided to permit the operator to continuously observe the patient during irradiation.
b) The operator shall be able to maintain aural contact with the patient.
c) Each x-ray control shall be located in such a way as to meet the following requirements:
   1) Stationary x-ray systems and mobile or portable x-ray systems used as stationary x-ray systems shall be required to have the x-ray exposure switch permanently mounted behind a protective barrier.
   2) For mobile and portable single event exposures and configuration, the x-ray control shall be positioned so that the operator is at least 1.83 meters (6 feet) away from the tube housing and the patient during an exposure.
   3) Stationary podiatric x-ray systems are exempt from the requirements of subsection (c)(1) of this Section, provided that the x-ray control meets the requirements of subsection (c)(2) of this Section.
d) Portable or mobile x-ray equipment shall be used only for examinations where it is impractical to transfer the patient(s) to a stationary x-ray installation.

(Source: Amended at 23 Ill. Reg. 14516, effective JAN - 1 2000)

Section 360.50 Fluoroscopic Systems

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In addition to the provisions of Sections 360.10, 360.30, 360.40 and 360.41 of this Part, the requirements of this Section apply to x-ray equipment and associated facilities used for fluoroscopy.

a) Beam Limitation. The x-ray field shall be limited by stepless adjustable shutters. In addition:
   1) The minimum field size at the greatest SID shall be no greater than 5 centimeters by 5 centimeters.
   2) The mechanism(s) (manual/automatic mode selector(s)) provided for activating and positioning the beam-limiting shutters shall function properly. This requirement applies to shutters used in fluoroscopic procedures or spot filming procedures or both fluoroscopic and spot filming procedures.
   3) Neither the length nor the width of the x-ray field in the plane of the image receptor shall exceed that of the visible area of the image receptor by more than three percent of the SID. The sum of the excess length and the excess width shall be no greater than four percent of the SID. This requirement applies to field sizes for fluoroscopic procedures or spot filming procedures or both fluoroscopic and spot filming procedures.
   4) For fluoroscopic equipment with only a manual mode of beam limitation, the x-ray field produced shall be limited to the area of the spot film cassette at 40.6 centimeters (16 inches) above the tabletop. Additionally, during fluoroscopy, the operator shall restrict the beam to the area of the input phosphor.
   5) Spot film devices shall meet the following additional requirements:
      A) Means shall be provided between the source and the patient for adjustment of the x-ray field size in the plane of the image receptor to the size which has been selected on the spot film selector. Such adjustment shall be accomplished automatically except when the x-ray field size in the plane of the image receptor is smaller than that selected;
      B) The center of the x-ray field in the plane of the image receptor shall be aligned with the center of the selected portion of the film to within two percent of the SID; and
      C) If the angle between the plane of the image receptor and beam axis is variable, a device shall be provided to visually indicate when the axis of the x-ray beam is perpendicular to the plane of the image receptor.
   6) The beam limitation requirements of this subsection shall not apply to fluoroscopic systems specifically designed for examination of extremities only and meeting the requirement of subsection (1) of this Section.
b) Fluoroscopic Timer. A manual reset, cumulative timing device shall be used which will either indicate elapsed on-time by an audible signal or turn off the system when the total exposure time exceeds a predetermined limit not exceeding 5 minutes in one or a series of exposures.

c) Primary Barrier/Interlock. These devices shall be provided and shall function so that:
   1) The entire cross section of the useful beam is intercepted by the primary protective barrier of the fluoroscopic image assembly at any SID; and
   2) The fluoroscopic tube is interlocked to prevent the unit from producing x-rays unless the primary barrier is in position to intercept the useful beam, as specified in subsection (1) of this Section, at all times.

d) Source-Skin Distance. The SSD shall not be less than:
   1) 38 centimeters (15 inches) on all stationary fluoroscopes;
   2) 20 centimeters (8 inches) on all mobile fluoroscopes; and
   3) 9 centimeters (3.5 inches) for fluoroscopes specifically designed for examination of extremities only and meeting the requirements of subsection (1) of this Section.

e) Indication of Potential and Current. During fluoroscopy and recording of fluoroscopic images, the kVp and the mA shall be continuously indicated at the control panel and/or the operator's position.

f) Activation of the Fluoroscopic Tube. X-ray production in the fluoroscopic mode shall be controlled by a device which requires continuous pressure by the operator for the entire time of any exposure. When recording serial fluoroscopic images, the operator shall be able to terminate the x-ray exposure(s) at any time, but means may be provided to permit completion of any single exposure of the series in process.

g) Entrance Exposure Requirements
   1) Maximum Exposure Rate. Fluoroscopic systems shall not be operable at any combination of tube potential and current which will result in an exposure rate in excess of 2.58 mC/kg(10 R) per minute at the point where the center of the useful beam enters the patient, except:
      A) During recording of fluoroscopic images; or
      B) When an optional high level control is activated (see subsection (g)(2)).
   2) When a high level control is activated, the equipment shall not be operable at any combination of tube potential and current which will result in an exposure rate in excess of 5.15 mC/kg(20 R) per minute at the point where the center of the useful beam enters the patient. In addition, the following requirements apply to high level controls:
      A) Separate means of activation of high level controls shall be required. The high level control shall only be operable when continuous manual activation is provided by the operator.
      B) A continuous signal audible to the operator shall indicate that the high level control is being employed.
   3) Compliance with the requirements of subsections (g)(1) and (2) of this Section shall be determined using technique factors that produce the maximum exposure rate. For systems employing automatic exposure rate control, material having an equivalency of at least 3 millimeters of lead shall be placed in the primary beam between the image receptor and the radiation measuring device. The lead or equivalent material shall be positioned to ensure that the entire primary beam is blocked.
      AGENCY NOTE: Many fluoroscopic systems do not yield their maximum exposure rate at the maximum tube potential or tube current. The exposure rate should be checked at various kVp and mA settings to establish the maximum exposure rate for the system.
   4) Fluoroscopic systems shall not be operable at any combination of tube potential and current that will result in an exposure rate in excess of 1.29 mC/kg (5 R) per minute at the point where the center of the useful beam enters the patient, when measured under the following conditions:
      A) Movable grids and compression devices shall be removed from the useful beam during the measurement.
      B) For systems without automatic exposure rate control, the measurement shall be performed using technique factors clinically used for a standard adult patient thickness of 23 centimeters.
         AGENCY NOTE: An attenuation block or other suitable material should be placed in the beam to protect the imaging system.
      C) For systems with automatic exposure rate control, the measurement shall be performed with a 2.5 millimeter thick sheet of copper ~~material--simulating--the--standard--adult patient-thickness-of-23-centimeters,~~ in the beam between the radiation measuring device and the image receptor.
         AGENCY NOTE: Use of a 2.5 millimeter thick sheet of copper approximates the attenuation of a standard adult patient thickness of 23 centimeters, and assures consistency in the measurement of fluoroscopic exposure rate.
         AGENCY NOTE: The Department recommends additional measurements be made of the entrance exposure rate for fluoroscopic systems capable of recording fluoroscopic images, and the entrance exposure for spot film techniques for fluoroscopic systems with that modality. In either case, measurements should be made under the conditions specified in subsection (g)(4)(B) of this Section.
      D) The requirements of subsection (g)(4) of this Section shall not apply to fluoroscopes specifically designed for examination of extremities only and meeting the requirements of subsection (1) of this Section.
   5) Measurements performed pursuant to the requirements of subsections (g)(1) through (4) of this Section shall meet the following additional requirements:

A) If the source is below the table, the exposure rate shall be determined for the center of the useful beam 1 centimeter above the tabletop or cradle, with the input surface of the fluoroscopic imaging assembly positioned 30 centimeters (12 inches) above the tabletop.

B) If the source is above the table, the exposure rate shall be determined at 30 centimeters (12 inches) above the tabletop with the end of the beam-limiting device or spacer positioned as closely as possible to the point of measurement.

C) For a fixed SID C-arm type of fluoroscope, the exposure rate shall be determined 30 centimeters (12 inches) from the input surface of the fluoroscopic imaging assembly.

D) For a variable SID C-arm type of fluoroscope, the exposure rate shall be determined 30 centimeters (12 inches) from the input surface of the fluoroscopic imaging assembly with the end of the beam-limiting device or spacer positioned as close as possible to the point of measurement.

E) For a lateral type fluoroscope, the exposure rate shall be determined on the central axis of the primary beam at a point 15 centimeters (6 inches) from the centerline of the x-ray table and in the direction of the x-ray source with the end of the beam-limiting device or spacer positioned as closely as possible to the point of measurement. If the tabletop is movable, it shall be positioned as closely as possible to the lateral x-ray source, with the end of the beam-limiting device or spacer no closer than 15 centimeters to the centerline of the x-ray table.

AGENCY NOTE: A lateral type fluoroscope is a fluoroscope that cannot be rotated so that the source or the fluoroscopic imaging assembly can be positioned below the fluoroscopic table or cradle.

F) For a fluoroscopic system specifically designed for examination of extremities only, the exposure rate shall be determined for the minimum source-skin distance.

6) The measurements required by this subsection (g) shall be performed when the system is inspected as specified in 32 Ill. Adm. Code 410 as well as after any maintenance of the system which might affect the exposure rate.

7) The results of the measurements required by subsections (g)(1), (2) and (4) of this Section shall be posted or available at the control panel. The measurement results shall be stated in millicoulombs per kilogram (roentgens) per minute or microcoulombs per kilogram (milliroentgens) per second and shall include the technique factors used in determining such results. The name of the individual performing the measurements and the date the measurements were performed shall be included in the results.

AGENCY NOTE: The resolution and efficiency of the fluoroscopic imaging system should be evaluated periodically, whenever deterioration in the imaging system is suspected and when the measured exposure rate exceeds the standards of this Section.

h) Barrier Transmitted Radiation Rate Limits

1) The exposure rate due to transmission through the primary protective barrier shall not exceed 0.516 microC/kg (2mR) per hour at 10 centimeters from any accessible surface of the fluoroscopic imaging assembly beyond the plane of the image receptor per 258 microC/kg (1R) per minute of entrance exposure rate.

2) Measuring Compliance of Barrier Transmission

A) The exposure rate due to transmission through the primary protective barrier shall be determined by measurements averaged over an area of 100 square centimeters with no linear dimension greater than 20 centimeters.

B) If the source is below the tabletop, the exposure rate shall be determined with the input surface of the fluoroscopic imaging assembly positioned 30 centimeters above the tabletop.

C) If the source is above the tabletop and the SID is variable, the exposure rate shall be determined with the end of the beam-limiting device or spacer as close to the tabletop as it can be placed, provided that it shall not be closer than 30 centimeters.

D) Movable grids and compression devices shall be removed from the useful beam during the measurement.

E) An attenuation block shall be positioned in the useful beam 10 centimeters from the point of measurement of entrance exposure rate and between this point and the input surface of the fluoroscopic imaging assembly.

i) Staff and Ancillary Personnel Protection. The operator, assistants and observers allowed in the examining room shall be protected from scatter radiation by protective aprons of not less than 0.25 millimeter lead equivalent or whole body protective barriers or shall be positioned at a sufficient distance to ensure that the individual does not receive a radiation dose in excess of the limits specified in 32 Ill. Adm. Code 340.310.

j) Control of Scattered Radiation

1) For fluoroscopic systems utilizing an x-ray tube that is mounted below the table, the table shall be provided with shielding (bucky slot cover) equivalent to 0.25 millimeter lead equivalent to attenuate scattered radiation emanating from below the table.

2) A shield of at least 0.25 millimeter lead equivalent, such as overlapping protective drapes or hinged or sliding panels, shall be provided and used to intercept scatter radiation which would otherwise reach the operator and others near the machine. This shielding shall not be a substitute for the wearing of a

protective apron (0.25 millimeter lead equivalent) for protection against scattered radiation.

3) Where sterile fields or special procedures prohibit the use of protective barriers or drapes, subsection (j)(2) of this Section shall not apply.

k) Additional Requirements for Stationary Fluoroscopic Systems Used for Cardiac Catheterization Procedures

1) Protective barriers shall be available for use by individuals whose presence is required in the room during activation of the x-ray tube(s). If a protective barrier includes or consists of a transparent viewing panel, the viewing panel shall afford protection of not less than 0.5 millimeter of lead equivalent.

2) Protective aprons of not less than 0.25 millimeter of lead equivalent shall be worn in the fluoroscopy room by all individuals (except the patient).
AGENCY NOTE: Because modern equipment allows great flexibility in the direction of the beam, individuals in the room should step back from the x-ray system and behind protective barriers during activation of the x-ray tube(s).

l) Additional Requirements for Fluoroscopic Systems Specifically Designed for Examination of Extremities Only

1) The radiation safety procedures required pursuant to Section 360.30(j) of this Part shall include the following:

A) A warning concerning the potential for, and the hazards of, increased patient radiation dose associated with x-ray systems employing short source-skin distances;

B) Procedures for obtaining imaging magnification with minimum patient dose, including imaging systems or screen-film combinations;

C) Technique factors for specific examinations for which the system is designed;

D) Radiation exposure data, including skin entrance exposure for each set of technique factors used.

2) The x-ray system shall be clearly labeled as follows: "For Examination of Extremities Only."

~~3) The source-skin distance shall be limited as specified in subsection (d) of this Section.~~

34) Fluoroscopic systems specifically designed for examination of extremities only shall be used solely for examination of extremities.

m) Radiation Therapy Simulation Systems. Radiation therapy simulation systems shall be exempt from the requirements of subsections (a), (b), (c), (g) and (h) of this Section provided that:

1) Such systems are designed and used in such a manner that no individual other than the patient is in the x-ray room during periods of time when the system is producing x-rays; and

2) Such systems that do not meet the requirements of subsection (b) of this Section are provided with a means of indicating the

cumulative time that an individual patient has been exposed to x-rays. Procedures shall require in such cases that the timer be reset between examinations.

n) Operator Restrictions. No person shall intentionally administer radiation to a human being with a fluoroscopic radiation machine unless such person is licensed to practice a treatment of human ailments under the Medical Practice Act of 1987, the Illinois Dental Practice Act or the Podiatric Medical Practice Act of 1987, except:

1) An accredited medical radiographer may operate a fluoroscope for static functions when diagnostic interpretation of the fluoroscopic image ~~results~~ is not required by the radiographer and only under the ~~direct~~ supervision of a licensed practitioner ~~who is within visual contact~~; or

2) An accredited medical radiographer may operate a fluoroscope as directed by, and under the direct supervision of, a licensed practitioner who is physically present and participating in the procedure; or

32) An accredited medical radiographer or radiation therapist may operate a fluoroscope for radiation therapy simulation procedures under the ~~direct~~ supervision of a licensed practitioner.

(Source: Amended at 23 Ill. Reg. 14516, effective JAN - 1 2000)

Section 360.60 Radiographic Systems Other Than Fluoroscopic, Dental, Veterinary or Computed Tomography Systems

In addition to the provisions of Sections 360.10, 360.30, 360.40 and 360.41 of this Part, the requirements of this Section apply to x-ray equipment and associated facilities used in the healing arts of medicine, chiropractic and podiatry. It does not apply to fluoroscopic, dental, veterinary or computed tomography systems.

a) Beam Limitation. The useful beam shall be limited to the area of clinical interest.

1) Stationary General Purpose and Mobile/Portable X-Ray Systems

A) Variable X-Ray Field Limitation. An adjustable collimator shall be provided with means for independent stepless adjustment of the size of the x-ray field.

B) Visual Indication of Field Size. Means shall be provided for visually defining the perimeter of the x-ray field. The total misalignment of the edges of the visually defined field, with respect to the edges of the x-ray field, along either the length or the width of the visually defined field, shall not exceed two percent of the distance from the source to the center of the visually defined field when the surface upon which it appears is perpendicular to the axis of the x-ray beam.
AGENCY NOTE: When a light localizer is used to define the

x-ray field, it should provide an average illumination of not less than 100 lux (9 footcandles) at 100 centimeters or at the maximum SID, whichever is less.

2) Special Purpose X-Ray Systems

A) Means shall be provided to limit the x-ray field in the plane of the image receptor so that such field does not exceed each dimension of the image receptor by more than two percent of the SID when the axis of the x-ray beam is perpendicular to the plane of the image receptor.

B) The requirements of subsection (a)(2)(A) of this Section may be met:

i) With a system that meets the requirements specified in subsection (a)(1) of this Section; or

ii) With an assortment of removable, fixed-aperture, beam-limiting devices sufficient to meet the requirement for each combination of image receptor size and SID for which the unit is used, with each such device having permanent, clearly legible markings, in centimeters and/or inches, to indicate the image receptor size and SID for which it is designed; or

iii) With a beam-limiting device having multiple fixed apertures sufficient to meet the requirement for each combination of image receptor size and SID for which the unit is used. Permanent, clearly legible markings, in centimeters and/or inches, shall indicate the image receptor size and SID for which each aperture is designed and shall indicate which aperture is in position for use.

3) Radiation therapy simulation systems shall be exempt from the beam limitation requirements of this Section.

~~c) Exemptions~~

~~i) Radiation Therapy Simulation Systems. Radiation therapy simulation systems shall be exempt from the beam limitation requirements of subsection (a)(2)(A) of this Section.~~

~~ii) Mammography Systems. Mammography systems shall be exempt from the requirements of subsection (a)(2)(B) of this Section.~~

b) Radiation Exposure Control Devices

1) Timers. Means shall be provided to terminate the exposure at a preset time interval, preset product of current and time, preset number of pulses or preset radiation exposure to the image receptor. Also, it shall not be possible to make an exposure when the timer is set to a zero or off position if either position is provided.

2) X-Ray Control

A) An x-ray control shall be incorporated into each x-ray system such that an exposure can be terminated by the operator at any time except for:

i) Exposures of 0.5 second or less; or

ii) During serial radiography when means shall be provided to permit completion of any single exposure of the series in process.

B) The exposure switch shall be a dead-man switch.

3) Automatic Exposure Controls (AEC). Systems which are provided with automatic exposure control devices shall incorporate a back-up timer to terminate the radiation exposure in the event of AEC failure. In addition, they shall meet the following requirements:

A) Indication shall be made on the control panel when this mode of operation is selected; and

B) A visible signal shall indicate when an exposure has been terminated by the back-up timer, and manual resetting shall be required before further automatically timed exposures can be made.

c) Source-Skin Distance (SSD). All mobile or portable radiographic systems shall be provided with means to limit the SSD to 30 centimeters or greater.

d) Linearity. For equipment that is operated at more than one x-ray tube current or current-time product setting, the average ratios of exposure (microcoulombs per kilogram or milliroentgens) to the indicated milliampere-seconds (mAs) product obtained at any two tube current or current-time product settings utilized shall not differ by more than 0.10 times their sum. This requirement is mathematically represented by the following:

$$[\bar{X}[1] - \bar{X}[2]] \leq [0.10(\bar{X}[1] + \bar{X}[2])]$$

where $\bar{X}[1]$ and $\bar{X}[2]$ are the average microC/kg/mAs or mR/mAs values obtained at any two tube current or current-time product settings utilized. Compliance shall be determined at any fixed x-ray tube potential within the rage of 40 percent to 100 percent of the maximum rated tube potential.

e) Medical Radiographic Entrance Exposure Limits. The in-air exposure determined for the technique used for the specified average adult patient for routine medical radiography shall not exceed the entrance exposure limits shown below: (See Section 360.Appendix A of this Part for measurement protocol and calculation of exposure at skin entrance.)

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Technique	Thickness (cm)	Exposure Limit (microC/kg)	(mR)
Chest (PA), Grid	23	9	35
Chest (PA), Non-Grid	23	8	30
Abdomen (KUB)	23	155	600
Lumbo-Sacral Spine (AP)	23	206	800
Cervical Spine (AP)	13	52	200
Skull (lateral)	15	65	250
Foot (D/P)	8	26	100

AGENCY NOTE: These exposures are maximums. With careful selection of technique factors, adjustment of film processing systems, and choice of film and screen-film combinations, patient exposures can be further reduced.

f) SID Indication
   1) Means shall be provided to indicate the SID.
   2) SIDs shall be indicated in centimeters and/or inches and the measured SID shall correspond to the indicated value to within two percent.

g) X-Ray Field/Image Receptor Alignment. Means shall be provided to:
   1) Indicate when the axis of the x-ray field is perpendicular to the plane of the image receptor; and
   2) Align the center of the x-ray field with respect to the center of the image receptor to within two percent of the SID.

(Source: Amended at 23 Ill. Reg. 14516, effective JAN - 1 2000)

Section 360.71 Additional Requirements for Facilities Performing Mammography (Repealed)

~~In--addition--to--the--provisions--of--Sections-360.10,-360.30,-360.40,-360.41,-360.60-of-this-Part-and-32-Ill.-Adm.-Code-400-and-401,-the-requirements-of-this-Section-apply--to--mammography--systems--and--associated--facilities--used--for-mammography.~~

~~a) Physician--Supervision.Mammography--operations-and-procedures-shall-be-under-the-supervision--of--a--physician--licensed--under--the--Medical-Practice--Act-of-1987-(225-ILCS-60)-to-practice-medicine-in-all-of-its-branches.~~

~~AGENCY-NOTE:--The--individual--interpreting--clinical--images--of--the-breast--should--be-a-licensed-practitioner-of-the-healing-arts-trained-in-the--imaging--modality--being--used--and--should--be--certified--in-diagnostic--radiology--by--either-the-American-Board-of-Radiology,-the-American--Osteopathic--Board--of--Radiology,--or--Royal---College---of-Physicians-and-Surgeons-of-Canada.~~

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~~b) Medical--Radiographers--Who--Perform--Mammography.---Registrants-shall-assure-that-medical-radiographers-who-perform--mammography--procedures-have---met--the--requirements--for--initial--training--and--continuing-education-in-mammography,-as-set-forth-in-32-Ill.--Adm.--Code--401.160-and-401.Appendix-C.~~

~~c) Mammography--shall--only-be-performed-with-a-special-purpose-radiation-machine-specifically-designed-for--and--used--solely--for--mammography-procedures.~~

~~d) Mammography---systems--shall--be--provided--with--compression--devices-parallel-to-the-imaging-plane-to-immobilize-and-compress--the--breast.-Compression-devices-shall:~~

~~1) Be--capable--of--maintaining-a-compression-force-of-at-least-11.3-kilograms-(25-pounds)-for-at-least-15-seconds;-and~~

~~2) Not-be-capable-of-exceeding-a-compression-force-of-more-than-18.1-kilograms-(40-pounds)-when-used-in-an-automatic--or--power--drive-mode.~~

~~AGENCY-NOTE:--Mammography-compression-devices-should-be-tested-at-regular-intervals-to-ensure-the-compression-force-is-adequate-but-not--excessive-and-that-the-devices-release-properly-according-to-the-manufacturer's-specifications.~~

~~e) Half-Value--Layer.---Notwithstanding--the--requirements---of---Section-360.40(a)---of---this---Part,---the--following--requirements--apply--to-mammography-systems:~~

~~1) For-mammography-systems-operating-at--x-ray--tube--potentials--of-less--than--35--kVp,-the-half-value-layer-(HVL)-in-millimeters-of-aluminum-of-the-useful-beam-shall-be-equal-to-or-greater-than-the-product-of-the-tube-potential-in-kilovolts--multiplied--by--0.01,-plus-0.03-when-measured-with-the-compression-paddle-in-the-beam.-Example:--If--the--HVL-is-measured-with-the-compression-paddle-in-the-beam,-at-a-tube-potential-of-27-kVp,-the--minimum--acceptable-HVL-is-0.30-millimeter-of-aluminum.~~

~~AGENCY--NOTE:--Prior-to-making-HVL-determinations,-the-kVp-of-the-useful-beam-should-be-measured-to--verify--the--accuracy--of--the-indicated--kVp--values.--If-a-discrepancy-exists-between-measured-and-indicated-values,-the-measured-value-should-be-used--for--the-calculation-of-minimum-HVL-(see-also-Section-360.40(f)(3)-of-this-Part).~~

~~2) For--non-screen-film-applications,-the-half-value-layer-shall-not-be-less-than-1.0-millimeter-of-aluminum-equivalent.~~

~~3) The-half-value-layer--shall--be--measured--with--the--compression-device--in--the--beam--and--shall--be--measured--at-the-same-tube-potential--used--in--Section--360,Appendix--B---of---this---Part,-Mammography--Dose-Measurement-Protocol-and-Section-360,Appendix-C-of-this-Part,-Mammography-Phantom-Image-Evaluation.~~

~~AGENCY-NOTE:--If-the-measured-half-value-layer--is--significantly-greater--than--the--specified--minimum,--image--contrast--will-be-reduced--and--overall--image--quality--will--be--degraded.----For-screen-film--mammography--systems,-it-is-recommended-that-the-HVL-

not exceed the minimum acceptable HVL by more than 0.1 millimeter of aluminum, as specified in the American College of Radiology, Mammography Quality Control for Medical Physicists, Revised Edition, 1994.

AGENCY NOTE: A copy of this report is available for public inspection at the Department of Nuclear Safety, 1035 Outer Park Drive, Springfield, Illinois 62704. Copies of this report may also be obtained from the American College of Radiology, 1891 Preston White Drive, Reston, VA 22091.

f) Source-Image Receptor Distance. Mammography equipment shall not be operated at any source-image receptor distance less than 50 centimeters.

g) Focal Spot Size. The nominal focal spot size, as specified by the x-ray tube manufacturer, shall not exceed 0.6 millimeter.

h) Mammography Exam Dose Limits. (See Section 360, Appendix B of this Part for the required measurement protocol.) The mean glandular dose for one craniocaudal view of a 4.2 centimeter compressed breast (50 percent adipose and 50 percent glandular) shall not exceed:

1) 1mGy (100 mrad) for screen film radiographs not employing the use of grids,

2) 3mGy (300 mrad) for screen film radiographs employing the use of grids, or

3) 4mGy (400 mrad) for xerography.

i) Mammography Exposure Rate. Mammography systems shall have sufficient x-ray output to complete the exposure required for the dose measurement of subsection (h) of this Section within a time of 2.5 seconds or less.

AGENCY NOTE: Mammographic x-ray systems should have means to indicate the milliampere seconds (mAs) resulting from each exposure made with automatic exposure control.

j) Mammography Phantom Image Evaluation. Mammography equipment shall be subjected to a phantom image evaluation using the mammography phantom specified in subsection (j)(2) of this Section.

1) A phantom image evaluation shall be performed annually as part of the inspection procedure required in 32 Ill. Adm. Code 410.50, using the mammography phantom image evaluation protocol found in Section 360, Appendix C of this Part.

A) Phantom images produced during an inspection by a Departmental inspector shall be retained by the Department.

B) Phantom images produced during an inspection by a nondepartment qualified inspector shall be submitted to the Department at the time of submission of inspection reports.

2) The mammography phantom used for phantom image evaluation shall be composed of material that is equivalent to a nominal 4.2 centimeter compressed breast of average density (i.e., 50 percent adipose and 50 percent glandular tissue) and shall contain the following objects:

A) Spherical masses, composed of phenolic plastic, with thicknesses of: 2.00, 1.00, 0.75, 0.50 and 0.25 millimeter;

B) Specks, composed of aluminum oxide, with diameters of: 0.54, 0.40, 0.32, 0.24 and 0.16 millimeter;

C) Fibers, composed of nylon, with thicknesses of: 1.56, 1.12, 0.89, 0.75, 0.54 and 0.40 millimeter.

AGENCY NOTE: The Mammographic Accreditation Phantom Model 156, manufactured by Radiation Measurements, Inc., meets the above criteria and was chosen for use by the American College of Radiology's Mammography Accreditation Program.

3) Phantom images submitted to the Department shall be labeled with or include as an attachment the following information:

A) Name of the facility and machine reference number;

B) Technique factors used to produce the image;

C) Identification of the film processing equipment;

D) Date the image was produced; and

E) Name or inspector identification number of the individual performing the test.

4) The mammography system shall be capable of producing images of the mammography phantom in which the following objects are visualized:

A) The three largest masses with thicknesses of 2.0, 1.0 and 0.75 millimeter.

B) The three largest speck groups with diameters of 0.54, 0.40 and 0.32 millimeter.

C) The four largest fibers with thicknesses of 1.56, 1.12, 0.89 and 0.75 millimeter.

5) The Department shall evaluate the images produced during mammography phantom image evaluation and shall report the results of the evaluation to the facility.

AGENCY NOTE: The Department will evaluate mammography phantom images using procedures recommended by the American College of Radiology in: American College of Radiology, Mammography Quality Control for Medical Physicists, Revised Edition, 1994.

k) Quality Assurance. A quality assurance (QA) program shall be established and maintained at each facility performing mammography procedures. The QA program shall include a performance evaluation of the mammographic x-ray machine and the film processor. Each facility shall have available for daily use the mammography phantom specified in subsection (j)(2) of this Section, a densitometer and a sensitometer.

1) A diagnostic imaging specialist shall establish and provide administrative oversight over the quality assurance program.

2) The quality assurance program shall include but not be limited to the following:

A) A list of names and qualifications of individuals responsible for:

i) Administration of the QA program;

ii) Performance of QA tests; and

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~~iii) Repairing or servicing the x-ray equipment.~~

~~B) A QA protocol which includes the following:~~

~~i) A description of the QA tests to be performed;~~

~~ii) The frequency of each QA test;~~

~~iii) Criteria of acceptability for each QA test; and~~

~~iv) A description of actions to be taken if established criteria are not met.~~

~~3) Quality assurance testing shall include, but not be limited to, the following tests, which shall be performed at the prescribed frequency:~~

~~A) The film processor shall be subjected to a performance evaluation each day before the processing of clinical or phantom images. Evaluation shall include measurement of temperature and densitometer measurements of sensitometer exposed film which has been processed in the film processor.~~

~~B) Mammography systems shall be tested for image quality each calendar month. Image quality testing shall be performed using the mammography phantom specified in subsection (j)(2) of this Section and the mammography phantom image evaluation protocol found in Section 360.Appendix C of this Part. In addition, the following requirements apply to image quality testing:~~

~~i) The individual identified in subsection (k)(1) of this Section shall provide such training as is necessary to the individual assigned to perform phantom image quality evaluation.~~

~~ii) Image quality testing shall be repeated after any change in or replacement of components of the x-ray machine or film processor which may affect the image quality, as determined by the individual identified in subsection (k)(1) of this Section.~~

~~iii) Each phantom image produced shall be labeled with the date, technique factors and equipment information if the facility contains more than one mammography machine.~~

~~iv) The registrant shall assure that the phantom image produced pursuant to this subsection meets the criteria of subsection (j)(4) of this Section.~~

~~v) Mammography systems not capable of producing a phantom image meeting the criteria of subsection (j)(4) of this Section shall not be used to image human patients until a phantom image has been produced meeting the criteria of subsection (j)(4) of this Section.~~

~~4) Mobile mammography systems shall be tested using the mammography phantom image evaluation after each relocation and prior to use on patients or shall meet the following requirements:~~

~~A) A diagnostic imaging specialist shall establish a protocol~~

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~~for measurement of the radiation output of the mammography system, including the radiation measuring device to be used, procedures for performing the measurement and the anticipated result of the measurement.~~

~~B) Measurements shall be performed using the technique factors that were used for the most recent phantom image evaluation (see subsection (k)(3)(B) of this Section). If a change is made in the technique factors used for the measurements required in this subsection, the image quality shall be tested using the mammography phantom image evaluation protocol found in Section 360.Appendix C of this Part.~~

~~AGENCY NOTE: If the phantom image evaluation is performed using a phototimer, the diagnostic imaging specialist may specify appropriate technique factors that approximate those used by the phototimer for the measurements required in this Section.~~

~~C) After each relocation of a mobile mammography system, measurements of the radiation output of the machine shall be performed according to the protocol established in subsection (k)(4)(A) of this Section.~~

~~D) If the radiation output measurement of subsection (k)(4)(C) of this Section exceeds plus or minus 15 percent of the value established by the diagnostic imaging specialist in subsection (k)(4)(A) of this Section, the system shall not be used to image human patients until the cause for the variation has been investigated and corrected.~~

~~E) Records of radiation output measurements for mobile mammography systems shall be maintained at the location of the mammography system for a period of not less than one inspection cycle (see 32 Ill. Adm. Code 410.60(d)).~~

~~AGENCY NOTE: The Department recommends that mobile mammography systems be tested for image quality after each relocation and prior to use on patients, with the mammography phantom image evaluation protocol in Section 360.Appendix C of this Part.~~

~~5) A diagnostic imaging specialist shall conduct a review of the quality assurance program each year. Such review shall include evaluation of the results of quality assurance testing.~~

~~AGENCY NOTE: In addition to the quality assurance testing required in this Section, facilities performing mammography should establish a quality assurance program that provides for analysis of repeated mammography exams, testing of screen film contact for all cassettes used to produce clinical images, testing of film fogging in the darkroom and measurement of the force applied by the compression device in both manual and power modes (if applicable).~~

~~l) Records~~

~~i) The registrant shall maintain and have available for review at~~

~~the facility, records of quality assurance testing performed as required in subsection (k) of this Section.~~

~~A) Records of film processor performance evaluation shall contain the date the test was performed, identification of the person performing the test and the results of the test including densitometry measurements.~~

~~B) Records of image quality testing shall include the mammography phantom image, labeled with the information required in subsection (k)(3) of this Section and the results of the mammography phantom image evaluation including the number, type and size of phantom objects visualized.~~

~~C) The registrant shall maintain at the facility, for a period of at least one inspection cycle (see 32 Ill. Adm. Code 410.60(d)), the records specified in subsections (l)(1)(A) and (B) of this Section.~~

~~2) Unless they are transferred directly to the patient or the patient's physician, mammography images or films shall be retained by the provider of the mammography service for a minimum of 60 months. Mammography images or films transferred to a patient's physician shall be retained by the physician for a minimum of 60 months. These retention periods are a minimum and shall not reduce any other medical record retention requirements established by statute or regulation.~~

~~AGENCY NOTE: The Department recommends that when a provider of the mammography service transfers mammography films or images to a patient's physician, the physician should be notified of the requirement to retain mammography images for 60 months.~~

~~m) Additional Operator Requirements. *Every operator of a radiation installation at which mammography services are provided shall ensure and have confirmed by each mammography patient that the patient is provided with a pamphlet which is orally reviewed with the patient and which contains the following:*~~

~~1) *how to perform breast self examination;*~~

~~2) *that early detection of breast cancer is maximized through a combined approach, using monthly breast self examination, a thorough physical examination by a physician and mammography performed at recommended intervals;*~~

~~3) *that mammography is the most accurate method for making an early detection of breast cancer, however, no diagnostic tool is 100% effective;*~~

~~4) *that if the patient is self referred and does not have a primary care physician, or if the patient is unfamiliar with the breast examination procedures, that the patient has received information regarding public health services where she can obtain a breast examination and instructions.* (420 ILCS 40/5(c))~~

(Source: Repealed at 23 Ill. Reg. 14516, effective JAN 1 2000)

Section 360.75 Computed Tomography (CT) Systems

a) Requirements for Equipment

1) Termination of Exposure

A) In the event of equipment failure affecting data collection, means shall be provided to terminate the x-ray exposure automatically, either by de-energizing the x-ray source or by shuttering the x-ray beam, through the use of either a back-up timer or devices which monitor equipment function.

B) A visible signal shall indicate when the x-ray exposure has been terminated through the means required by subsection (a)(1)(A) of this Section.

C) The operator shall be able to terminate the x-ray exposure at any time during a scan, or series of scans, of greater than 0.5 second duration.

2) Tomographic Plane Indication and Alignment

A) Means shall be provided to permit visual determination of the location of a reference plane. This reference plane can be offset from the location of the tomographic planes.

B) If a device using a light source is used to satisfy subsection (a)(2)(A) of this Section, the light source shall provide illumination levels sufficient to permit visual determination of the location of the tomographic plane or reference plane under ambient light conditions of up to 500 lux (45 footcandles).

C) The total error in the indicated location of the tomographic plane or reference plane shall not exceed 5 millimeters.

D) The deviation of indicated scan increment versus actual increment shall not exceed plus or minus 1 millimeter with a typical patient mass resting on the patient support device. The patient support device shall be moved incrementally from a typical starting position to the maximum incremental distance or 30 centimeters, whichever is less, and then returned to the starting position. If the CT system has the capability of variable gantry angles, the compliance measurements shall be performed with the CT gantry positioned at zero degrees.

3) Beam-On and Shutter Status Indicators. The CT x-ray control panel and gantry shall provide visual indication whenever x-rays are produced and, if applicable, whether the shutter is open or closed.

4) Technique Indicators. The CT x-ray control panel shall provide visual indication of the technique factors, tomographic section thickness and scan increment prior to the initiation of a scan or a series of scans.

b) Facility Design Requirements

1) The control panel shall be located behind a protective barrier.
2) Communication. Provision shall be made for two-way aural communication between the patient and the operator at the control panel.
3) Viewing Systems. Windows, mirrors, closed-circuit television or an equivalent system shall be provided to permit continuous observation of the patient during irradiation and shall be located so that the operator can observe the patient from the control panel.

c) Radiation dose measurements shall be performed by a diagnostic imaging specialist on each CT x-ray system. Such measurements shall be specified in terms of the multiple scan average dose (MSAD), using a head phantom and the facility's technique factors most frequently used for a CT examination of the head and shall be performed:
1) At least annually ~~the time of the inspection required pursuant to 32 Ill. Adm. Code 410 and at intervals specified~~ by a diagnostic imaging specialist and after any change or replacement of components which~~, in the opinion of the diagnostic imaging specialist,~~ could cause a change in the radiation output;
2) With a dosimetry system that has been calibrated within the preceding 12 months. The calibration of such system shall have no more than a three-step (tertiary) calibration, traceable to the National Institute of Standards and Technology; and
3) Using the computed tomography dose measurement protocol found in Section 360.Appendix D of this Part.
AGENCY NOTE: The Department recognizes that other phantoms and protocols are available to provide accurate dose measurements as specified in this Section. The Department will consider use of such phantoms and protocols as satisfying this Section if the intent of the regulation is met.

d) Quality assurance procedures shall be conducted on each CT system and shall meet the following requirements:
1) The quality assurance procedures shall be in writing and shall have been developed by a diagnostic imaging specialist. Such procedures shall include, but need not be limited to, the following:
A) Specifications of the tests that are to be performed, including instructions to be employed in the performance of those tests; and
B) Specifications of the frequency at which tests are to be performed, the acceptable tolerance for each parameter measured and actions to be taken if tolerances are exceeded.
2) Quality assurance procedures shall include acquisition of images using a CT phantom which has the capability of providing an indication of the resolution capability of the system.
AGENCY NOTE: The CT phantom used for quality assurance procedures should have the capability of providing an indication of contrast scale, noise, nominal tomographic section thickness,

resolution capability of the system for low and high contrast objects and relative densities (CT numbers) for water or other reference material.

~~e) The registrant shall maintain at the facility written records of the radiation dose measurements and quality assurance testing performed, as required in subsections (c) and (d) of this Section, for inspection by the Department for a period of at least one inspection cycle (see 32 Ill. Adm. Code 410.60(d)). Such records shall include, but need not be limited to, the following:~~
~~1) The date of the test and identification of the person performing the test;~~
~~2) Identification of the type of testing that was performed; and~~
~~3) Notation of whether the results of the testing were within the parameters established by the diagnostic imaging specialist.~~
~~AGENCY NOTE: The Department recommends that the registrant retain the results of quality assurance testing in the form of photographic copies of the images obtained from the image display device or images stored in digital form on a storage medium compatible with the CT x-ray system. Images retained to fulfill the requirements of this subsection should be labeled with the information required in subsections (e)(1) through (3) of this Section.~~

e~~f~~) Operating Procedures. Information shall be available at the control panel regarding the operation of the system. Such information shall include written quality assurance procedures, as required in subsection (d)(1) of this Section.

(Source: Amended at 23 Ill. Reg. 14516, effective JAN 1 2000)

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Section 360.APPENDIX B Mammography Dose Measurement Protocol (Repealed)

~~The technique factors used for performing a mammography examination shall not permit the mean glandular absorbed dose to exceed the limits specified in Section 360.71(h) of this Part. Radiation measurements shall be performed with an integrating radiation measuring device that is appropriate to the high beam intensity and mammographic kilovoltage peak (kVp) used, and sufficiently sensitive to determine compliance with the criteria specified in Section 360.71(h) of this Part. The instrument shall have been calibrated within the previous 12 months with devices which have no more than a three step (tertiary) calibration, traceable to the National Institute of Standards and Technology.~~

~~The mammography exam dose limits are based on an average compressed breast value of 4.2 centimeters having an average density (i.e., 50 percent adipose and 50 percent glandular).~~
~~Perform the following steps to determine the mean glandular dose to a nominal 4.2 centimeter compressed breast:~~

~~a) Measure and record the x ray system's useful beam half value layer (HVL). (See Section 360.71(e) of this Part.) Any compression device normally in the useful beam during mammography procedures shall be required to be placed between the x ray tube target and measuring device when determining the HVL. The useful beam shall be collimated to a size encompassing the detector.~~
~~AGENCY NOTE: Filters used for the HVL evaluation should be placed as close to the target as practical. The HVL forscreen film mammography should not exceed the minimum acceptable HVL by more than 0.1 millimeter of aluminum equivalent (see Section 360.71(e) of this Part), and 1.6 millimeters of aluminum equivalent for xerography.~~

~~b) Determine the glandular dose to entrance exposure factor from the Mammography Dose Evaluation Table (see Section 360.Table A of this Part) using the appropriate HVL, kVp and x ray tube target filter material.~~
~~AGENCY NOTE: The kVp of screen film mammography systems with molybdenum target filter combinations should be accurately measured to determine the appropriate glandular dose to entrance exposure factor from Section 360.Table A of this Part.~~

~~c) If the equipment has the capability for variable source image receptor distance, set the craniocaudal source image receptor distance (SID) for the image receptor system used.~~

~~d) Position in the useful beam any compression apparatus normally used.~~
~~AGENCY NOTE: Some mammography systems have the capability of providing automatic adjustment of technique factors through feedback from the position of the compression device. On such systems, the compression device should be lowered to a position 4.2 centimeters above the breast support assembly (BSA). The device should then be removed, inverted and replaced to allow placement of the phantom and measuring device on the BSA below the compression device. If the compression device cannot be replaced in an inverted position, the device should be placed in the beam using auxiliary support.~~

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~~e) Placement of the Radiation Measuring Device~~
~~i) For systems equipped with automatic exposure control (AEC):~~
~~A) Place a properly loaded film cassette in the cassette holder.~~
~~AGENCY NOTE: The loaded cassette is placed in the cassette holder to simulate, as much as is possible, the conditions under which actual patient exposures are made. Following radiation measurements, the film should be discarded and the cassette reloaded with unexposed film.~~
~~B) Place a mammography phantom (see the definition for "Mammography phantom" in Section 360.20 of this Part) on the breast support assembly (BSA). Align the phantom so that the edge of the phantom is aligned with the chest wall side of the BSA and the phantom is over the automatic exposure control device(s).~~
~~C) Place a radiation measuring device in the useful beam so the center axis of the device is parallel to the breast support assembly (BSA). The geometric center of the measuring device shall be positioned 4.2 centimeters above the BSA, 2.5 centimeters from the chest wall edge of the BSA and immediately adjacent to either side of the mammography phantom.~~
~~2) For systems not equipped with AEC, place a radiation measuring device in the useful beam so that the center axis of the device is parallel to the breast support assembly (BSA). The geometric center of the measuring device shall be positioned so that it is centered 4.2 centimeters above the BSA, 2.5 centimeters from the chest wall edge of the BSA and at the center line of the BSA (see Section 360.Illustration A of this Part). No part of the device's detector area shall be outside of the useful beam.~~
~~f) Collimate the x ray field to the size normally used and assure that the area covered by the useful beam includes the detector area of the radiation measuring device and the mammography phantom if the equipment is equipped with automatic exposure controls.~~
~~g) Set the appropriate technique factors or automatic exposure controls normally used for a nominal 4.2 centimeter compressed breast.~~
~~h) Measure and record the exposure in air with the radiation measuring device.~~
~~i) Measure and record the time of the exposure required in subsection (h) of this Section. The time for the exposure shall be equal to or less than 2.5 seconds (see Section 360.71(i) of this Part).~~
~~j) Calculate the mean glandular dose for a 4.2 centimeter compressed breast by multiplying the measured exposure in millicoulombs per kilogram or in roentgens by the glandular dose to entrance exposure factor, which was determined using the procedure described in subsection (b) of this Section.~~
~~Example: A mammography system is provided with a molybdenum~~

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target-filter--combination,--and--the-HVL-and-kVp-are-determined-to-be 0.3-and-30,-respectively.-Therefore,-for-a-4.2--centimeter--compressed breast,--the--granular--dose--to--entrance--exposure--factor-from-the Mammography-Dose-Evaluation-Table-(Section-360.Table-A-of--this--Part) would--be--159--mrad.---The--measured--roentgen--output--determined-in subsection-(h)-of-this-Section-is-determined-to-be-1.0-R.---Therefore, the-mean-glandular-dose-would-be-1.0-R-multiplied-by-159-mrad/R.--This results-in-a-mean-glandular-dose-measurement-of-286-mrad.-If-the-image receptor-type-used-wasscreen-film-with-grid,-the-system--would--be--in compliance-with-Section-360.71(h)(2)-of-this-Part.

(Source: Repealed at 23 Ill. Reg. 14516, effective JAN - 1 2000)

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Section 360.APPENDIX C Mammography Phantom Image Evaluation (Repealed)

Mammography-phantom-image-evaluation-shall-be--performed--using--the--procedure below.---The--evaluation--shall--be--performed-monthly-as-a-part-of-the-quality assurance-program-and-as-part-of-the-routine-inspection--required--by--32--Ill. Adm.--Code-410.--The-evaluation-shall-be-performed-with-the-mammography-phantom specified-in-Section-360.71(j)(2)-of-this-Part.

a) Equipment-necessary-for-mammography-phantom-image-evaluation--includes a--densitometer,-the-mammographpy-phantom-and-mammographic-cassette-and film.

b) Load-film-in-the-mammographic-cassette-according-to-the-manufacturer's instructions.

c) Place-the-properly-loaded-cassette-in-the-cassette-holder.

d) Place-the-mammography-phantom-on-the-breast-support-assembly-(BSA)--so that--the--edge--of-the-phantom-is-aligned-with-the-chest-wall-side-of the-BSA.--Align-the-phantom-so-that-the--masses--in--the--phantom--are nearest--the--chest-wall-edge-of-the-BSA-and-the-fibers-in-the-phantom are-away-from-the-chest-wall-edge-of--the--BSA.---If--the--mammography machine--has--the--capability-of-automatic-exposure-control,-place-the phantom-so-that-the-phantom-covers-the-phototimer-sensor.

e) Position-the-compression-device-so-that-it--is--in--contact--with--the phantom.

f) Select--the--technique--factors--used--most-frequently-in-the-clinical setting-for-a-4.2-centimeter-compressed-breast-and-make-an-exposure-of the-phantom.

g) Process-the-film-in-the-processor-used-for-clinical-mammography-films.

h) Examine-the-processed-image-for-areas--of--non-uniformity--of--optical density--and--for--the--presence--of-artifacts-due-to-dirt,-dust,-grid lines-or-processing.

AGENCY-NOTE:--If-any-of-the-problems-noted-above-are--evident--on--the processed--image,--the--mammography--machine--film--processor-and-film cassette(s)-should--be--evaluated--and--the--problem--corrected.---The phantom--image--evaluation--should--be--repeated--after-the-problem-is corrected.

i) Measure-and-record-the-optical-density-of-the-film-near-the-center--of the-phantom-image.

AGENCY--NOTE:--The--optical-density-of-the-film-should-be-between-1.10 and-1.50.--If-the-density-of-the-phantom-image-is-not-in--this--range, the--phantom--image--may--not--have--enough--contrast-to-visualize-the objects-necessary-to-determine-compliance-with-the-criteria-of-Section 360.71(j)(4)-of-this-Part.--Potential-causes-of-film--optical--density problems---include--use--of--improper--technique--factors--and--either over-processing-or-under-processing-the-film.

j) Examine-the-phantom-image-and-count-and-record-the--number--of--masses visualized.---Repeat--this--procedure--for--the--speck--groups-and-the fibrils-and-record-the-number-of--objects--visualized.---There--are--a total--of--16-imaging-objects-(5-masses,-5-speck-groups-and-6-fibrils) in-the-phantom.--Evaluation-criteria-for--objects--visualized--in--the

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phantom image are in Section 360.71(j)(4) of this Part. As a minimum, the objects that must be visualized in the phantom image are:

1) the masses that are 0.75 millimeter or larger (a total of 3 masses);
2) the speck groups that are 0.32 millimeter or larger (a total of 3 speck groups);
3) the fibrils that are 0.75 millimeter or larger (a total of 4 fibrils).

AGENCY NOTE: The phantom image should be compared with previous films, including the original phantom image, to determine if subtle changes are occurring from month to month.

(Source: Repealed at 23 Ill. Reg. 14516, effective JAN 1 7000)

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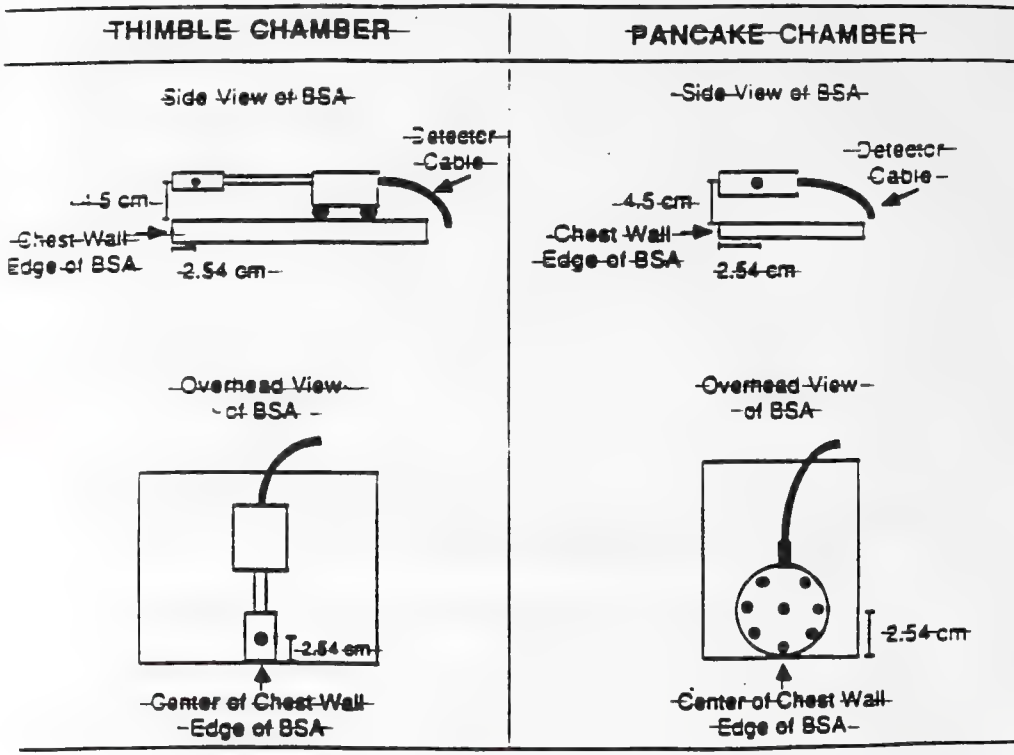
Section 360.ILLUSTRATION A Thimble and Pancake Chamber-Radiation Measuring Devices (Repealed)



(Source: Repealed at 23 Ill. Reg. 14516, effective

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NOTICE OF ADOPTED AMENDMENTS

JAN - 1 2000)

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF ADOPTED AMENDMENT(S)

Section 360.TABLE A Mammography Dose Evaluation Table (Repealed)

~~This table is used to determine the mean glandular dose in milligrays delivered by 25.0 mC/kg (or millirad) delivered by 1 R in air incident on a 4.2 centimeter thickness compressed breast of average density (50 percent adipose and 50 percent glandular tissue). Values listed are for the first half value layer (HVL) in millimeters of aluminum (mm Al), for x ray tube target filter combinations of molybdenum/molybdenum (Mo/Mo) and tungsten/aluminum (W/Al). Linear extrapolation or interpolation shall be made for any HVL not listed.~~

~~Mean Glandular Dose in milligrays for 25.0 mC/kg (or millirad for 1 R, Entrance Exposure for a 4.2 Centimeter Compressed Breast of Average Density~~

~~HVL~~	~~Mo/Mo Target Filter X Ray Tube Voltage (kVp)~~											~~W/Al Target Filter Combination~~
~~(mm Al)~~	~~23~~	~~24~~	~~25~~	~~26~~	~~27~~	~~28~~	~~29~~	~~30~~	~~31~~	~~32~~	~~33~~	
~~0.33~~	~~116~~											
~~0.34~~	~~121~~	~~124~~										
~~0.35~~	~~126~~	~~129~~	~~131~~									
~~0.36~~	~~130~~	~~133~~	~~135~~	~~138~~								
~~0.37~~	~~135~~	~~138~~	~~140~~	~~142~~	~~143~~							
~~0.38~~	~~140~~	~~142~~	~~144~~	~~146~~	~~147~~	~~149~~						
~~0.39~~	~~141~~	~~146~~	~~148~~	~~150~~	~~151~~	~~153~~	~~154~~					
~~0.40~~	~~149~~	~~151~~	~~153~~	~~155~~	~~156~~	~~157~~	~~158~~	~~159~~				~~170~~
~~0.41~~	~~154~~	~~156~~	~~157~~	~~159~~	~~160~~	~~161~~	~~162~~	~~163~~	~~164~~			~~175~~
~~0.42~~	~~158~~	~~160~~	~~162~~	~~163~~	~~164~~	~~166~~	~~167~~	~~168~~	~~168~~	~~170~~	~~171~~	~~180~~
~~0.43~~	~~163~~	~~165~~	~~166~~	~~168~~	~~169~~	~~170~~	~~171~~	~~173~~	~~173~~	~~174~~	~~175~~	~~185~~
~~0.44~~	~~168~~	~~170~~	~~171~~	~~172~~	~~173~~	~~174~~	~~175~~	~~176~~	~~177~~	~~178~~	~~179~~	~~190~~
~~0.45~~		~~174~~	~~175~~	~~176~~	~~177~~	~~178~~	~~179~~	~~180~~	~~181~~	~~182~~	~~183~~	~~194~~
~~0.46~~			~~179~~	~~181~~	~~182~~	~~183~~	~~184~~	~~185~~	~~185~~	~~186~~	~~187~~	~~199~~
~~0.47~~				~~185~~	~~186~~	~~187~~	~~188~~	~~189~~	~~190~~	~~191~~	~~191~~	~~204~~
~~0.48~~					~~190~~	~~191~~	~~192~~	~~193~~	~~194~~	~~195~~	~~195~~	~~208~~
~~0.49~~						~~196~~	~~197~~	~~198~~	~~198~~	~~199~~	~~200~~	~~213~~
~~0.50~~							~~201~~	~~202~~	~~203~~	~~204~~	~~204~~	~~217~~

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF ADOPTED AMENDMENT(S)

~~HVL (mm Al)~~	~~Mo/Mo Target Filter X-Ray Tube Voltage (kVp)~~											~~W/Al Target Filter Combination~~
	~~23~~	~~24~~	~~25~~	~~26~~	~~27~~	~~28~~	~~29~~	~~30~~	~~31~~	~~32~~	~~33~~	
~~0.41~~								~~206~~	~~207~~	~~208~~	~~208~~	~~221~~
~~0.42~~									~~211~~	~~212~~	~~213~~	~~225~~
~~0.43~~										~~215~~	~~216~~	~~230~~
~~0.44~~												~~234~~
~~0.45~~												~~238~~

~~AGENCY--NOTE:--Adapted--from:--Mammography--Quality--Control---Manual:--Medical Physicist's-Section,-Revised-Edition,-1994.~~

(Source: Repealed at 23 Ill. Reg. 14516, effective JAN 1 2000)

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Child Support Enforcement

2) Code Citation: 89 Ill. Adm. Code 160

3) Section Numbers: 160.62 — Adopted Action: Repeal

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

5) Effective Date of Amendments: December 1, 1999

6) Does this rulemaking contain an automatic repeal date? No

7) Do these amendments contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: December 4, 1998 (22 Ill. Reg. 20755)

10) Has JCAR issued a Statement of Objections to these amendments? No

11) Differences Between Proposal and Final Version: Section 160.30 has been deleted in its entirety from the proposed rulemaking. No other changes have been made in the text of the proposed amendments.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will these amendments replace emergency amendments currently in effect? No

14) Are there any other amendments pending on this Part? Yes

Sections	Proposed Action	Illinois Register Citation
160.5	Amendment	October 1, 1999 (23 Ill. Reg. 12573)
160.60	Amendment	October 1, 1999 (23 Ill. Reg. 12573)
160.70	Amendment	September 17, 1999 (23 Ill. Reg. 11407)
160.75	Amendment	October 1, 1999 (23 Ill. Reg. 12573)
160.95	New Section	October 1, 1999 (23 Ill. Reg. 12573)
160.100	Amendment	October 1, 1999 (23 Ill. Reg. 12573)
160.110	Amendment	October 1, 1999 (23 Ill. Reg. 12573)
160.120	Amendment	October 1, 1999 (23 Ill. Reg. 12573)
160.130	Amendment	October 1, 1999 (23 Ill. Reg. 12573)

DEPARTMENT OF PUBLIC AID

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160.132	Amendment	October 1, 1999 (23 Ill. Reg. 12573)
160.134	Amendment	October 1, 1999 (23 Ill. Reg. 12573)
160.136	Amendment	October 1, 1999 (23 Ill. Reg. 12573)

15) Summary and Purpose of Amendments:

In view of the repeal by Public Act 90-790 of Section 12-4.31 of the Illinois Public Aid Code pertaining to conduct of paternity establishment and the continued eligibility demonstration program, the Department determined that the amendments that had been proposed to Section 160.30 concerning cooperation with child support enforcement are not necessary and were, therefore, removed from the proposed rulemaking.

Section 160.62 is being repealed due to expiration of the demonstration program. With the elimination of the amendments that had been proposed to Section 160.30 and the repeal of Section 160.62, the Department's cooperation provisions will be consistent in requiring custodial parents to furnish identifying information regarding the noncustodial parent and allowing attestation to the lack of such information.

16) Information and questions regarding these adopted amendments shall be directed to:

Joanne Jones, Rules Manager
Office of the General Counsel
Illinois Department of Public Aid
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763-0002
Telephone: (217) 524-0081

The full text of the adopted amendments begins on the next page:

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER f: COLLECTIONS

PART 160
CHILD SUPPORT ENFORCEMENT

SUBPART A: GENERAL PROVISIONS

SUBPART B: COOPERATION WITH CHILD SUPPORT ENFORCEMENT

SUBPART C: ESTABLISHMENT AND MODIFICATION OF CHILD SUPPORT ORDERS

SUBPART D: ENFORCEMENT OF CHILD SUPPORT ORDERS

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SUBPART E: EARMARKING CHILD SUPPORT PAYMENTS

Section
160.90 Earmarking Child Support Payments

SUBPART F: DISTRIBUTION OF SUPPORT COLLECTIONS

Section
160.100 Distribution of Child Support for TANF Recipients
160.110 Distribution of Child Support for Former AFDC or TANF Recipients Who Continue to Receive Child Support Enforcement Services
160.120 Distribution of Child Support Collected While the Client Was an AFDC or TANF Recipient, But Not Yet Distributed at the Time the AFDC or TANF Case Is Cancelled
160.130 Distribution of Intercepted Income Tax Refunds and Other State Payments
160.132 Distribution of Child Support for Non-TANF Clients
160.134 Distribution of Child Support for Interstate Cases
160.136 Distribution of Support Collected in IV-E Foster Care Maintenance Cases
160.138 Distribution of Child Support for Medical Assistance No Grant Cases

SUBPART G: STATEMENT OF CHILD SUPPORT ACCOUNT ACTIVITY

Section
160.140 Statement of Child Support Account Activity

SUBPART H: DEPARTMENT REVIEW OF DISTRIBUTION OF CHILD SUPPORT

Section
160.150 Department Review of Distribution of Child Support for TANF Recipients
160.160 Department Review of Distribution of Child Support for Former AFDC or TANF Recipients

AUTHORITY: Implementing and authorized by Sections 4-1.7, Art. X, 12-4.3 and 12-13 of the Illinois Public Aid Code [305 ILCS 5/4-1.7, Art. X, 12-4.3 and 12-13].

SOURCE: Recodified from 89 Ill. Adm. Code 112.78 through 112.86 and 112.88 at 10 Ill. Reg. 11928; amended at 10 Ill. Reg. 19990, effective November 14, 1986; emergency amendment at 11 Ill. Reg. 4800, effective March 5, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9129, effective April 30, 1987; amended at 11 Ill. Reg. 15208, effective August 31, 1987; emergency amendment at 11 Ill. Reg. 1563, effective December 31, 1987, for a maximum of 150 days; amended at 12 Ill. Reg. 9065, effective May 16, 1988; amended at 12 Ill. Reg. 18185, effective November 4, 1988; emergency amendment at 12 Ill. Reg. 20835, effective December 2, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 22278, effective January 1, 1989; amended at 13 Ill. Reg. 4268, effective March

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NOTICE OF ADOPTED AMENDMENTS

21, 1989; amended at 13 Ill. Reg. 7761, effective May 22, 1989; amended at 13 Ill. Reg. 14385, effective September 1, 1989; amended at 13 Ill. Reg. 16768, effective October 12, 1989; amended at 14 Ill. Reg. 18759, effective November 9, 1990; amended at 15 Ill. Reg. 1034, effective January 21, 1991; amended at 16 Ill. Reg. 1852, effective January 20, 1992; amended at 16 Ill. Reg. 9997, effective June 15, 1992; amended at 17 Ill. Reg. 2272, effective February 11, 1993; amended at 17 Ill. Reg. 18844, effective October 18, 1993; amended at 18 Ill. Reg. 697, effective January 10, 1994; amended at 18 Ill. Reg. 12052, effective July 25, 1994; amended at 18 Ill. Reg. 15083, effective September 23, 1994; amended at 18 Ill. Reg. 17886, effective November 30, 1994; amended at 19 Ill. Reg. 1314, effective January 30, 1995; amended at 19 Ill. Reg. 8298, effective June 15, 1995; amended at 19 Ill. Reg. 12675, effective August 31, 1995; emergency amendment at 19 Ill. Reg. 15492, effective October 30, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 1195, effective January 5, 1996; amended at 20 Ill. Reg. 5659, effective March 28, 1996; emergency amendment at 20 Ill. Reg. 14002, effective October 15, 1996, for a maximum of 150 days; amended at 21 Ill. Reg. 1189, effective January 10, 1997; amended at 21 Ill. Reg. 3922, effective March 13, 1997; emergency amendment at 21 Ill. Reg. 8594, effective July 1, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 9220, effective July 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 12197, effective August 22, 1997; amended at 21 Ill. Reg. 16050, effective November 26, 1997; amended at 22 Ill. Reg. 14895, effective August 1, 1998; emergency amendment at 22 Ill. Reg. 17046, effective September 10, 1998, for a maximum of 150 days; amended at 23 Ill. Reg. 2313, effective January 22, 1999; emergency amendment at 23 Ill. Reg. 11715, effective September 1, 1999, for a maximum of 150 days; emergency amendment at 23 Ill. Reg. 12737, effective October 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 14560, effective DEC - 1 1999.

SUBPART C: ESTABLISHMENT AND MODIFICATION OF CHILD SUPPORT ORDERS

Section 160.62 Cooperation with Paternity Establishment and Continued Eligibility Demonstration Program (Repealed)

~~a) Unless the Department determines there is good cause for failure to cooperate (see Sections 160.35 through 160.45), a custodial parent of a non-marital child in a case assigned to either the experimental or the non-experimental treatment group in the Paternity Establishment and Continued Eligibility Demonstration Program under subsection (c) of Section 160.61 must cooperate with the Department's efforts to establish the child's paternity, as required under this Section. If the alleged father is in the home with the custodial parent and included in the assistance unit, both parents must comply with the cooperation requirements.~~

~~b) The provisions of Section 160.30, on cooperation with the support enforcement program, shall apply to the cases described in subsection (a) of this Section, unless otherwise provided in this Section.~~

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NOTICE OF ADOPTED AMENDMENTS

c) A custodial parent in a case described in subsection (a) of this Section cannot attest to lack of information under subsection (c) of Section 160.30, but must furnish to the Department at the time of the notification required under subsection (d) of this Section a written statement, under penalty of perjury, setting forth the following verifiable information about the alleged father, or, if more than one person is an alleged father, about each such person:

1) the name and social security number of the alleged father; or

2) the name of the alleged father and at least two of the following items of identifying information related to the alleged father:

A) date of birth;

B) address;

C) telephone number;

D) name and address of past or present employer;

E) name and address of union or trade association;

F) past or present school attended;

G) names and address of parents;

H) names and addresses of other relatives or friends;

I) the manufacturer's model and license number of any motor vehicle owned by the alleged father;

J) other verifiable information concerning the alleged father, such as information about military service, involvement with the criminal justice or penal systems, receipt of public assistance or unemployment insurance benefits or the existence of professional, occupational or recreational licenses.

d) All custodial parents in the cases described in subsection (a) of this Section shall be notified, in writing, of the cooperation requirements and sanctions for failure to comply with those requirements under this Section during intake, when adding a non-marital child to their grant (including cases where the new child is subject to the family cap under 89 Ill. Adm. Code 112 and 170), or, for existing cases with a non-marital child, at any time beginning with the effective date of this Section.

e) The failure of a custodial parent to provide sufficient identifying information about the alleged father, as required under subsection (c) of this Section, shall not be determined to be non-cooperation if:

1) the custodial parent has had an assistance grant that includes the non-marital child for at least 10 years prior to the notification provided to the custodial parent under subsection (d) of this Section, and the custodial parent furnishes to the Department a written statement, under penalty of perjury, indicating that she does not know the identifying information about the alleged father because she has had no contact with him since the non-marital child was included in the assistance grant; or

2) the custodial parent does not know the required information because:

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A) the custodial parent is developmentally disabled, as documented by a copy of an intelligence quotient test result, or the written statement of a qualified medical practitioner; or

B) the custodial parent is mentally ill, or was mentally ill at the time the non-marital child was conceived, as documented by the written statement of a qualified medical practitioner stating that the nature of the mental illness prevented the person from knowing the required information; or

C) the custodial parent has a history of drug or alcohol abuse, and provides documentation of treatment for such abuse taken at the time the non-marital child was conceived; and

3) the custodial parent provides whatever identifying information she does possess about the alleged father.

f) All applicants and recipients subject to the provisions of this Section shall have the same appeal rights, including the right to a fair hearing, as any other applicant or recipient notified of an adverse action.

(Source: Repealed at 23 Ill. Reg. 14560, effective DEC - 1 1999)

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Medical Payment

2) Code Citation: 89 Ill. Adm. Code 140

3)

Section Numbers:	Adopted Action:
140.461	Amendment
140.462	Amendment

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

5) Effective Date of Amendments: December 1, 1999

6) Does this rulemaking contain an automatic repeal date? No

7) Do these amendments contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: January 4, 1999 (23 Ill. Reg. 128)

10) Has JCAR issued a Statement of Objections to these amendments? No

11) Differences Between Proposal and Final Version:

The following changes have been made in the text of the proposed rulemaking:

Section 140.461

New language has been added at the end of subsection (g) as follows: "Examples of certification requirements include:".

In subsection (g)(7), "12-months" has been changed to "12-month".

Section 140.462

In subsection (f)(1), "medical practice and pharmacy practice acts" has been changed to "Medical Practice and Pharmacy Practice Acts".

No other changes have been made in the text of the proposed amendments.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

DEPARTMENT OF PUBLIC AID

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13) Will these amendments replace emergency amendments currently in effect? No

14) Are there any other amendments pending on this Part? Yes

Sections	Proposed Action	Illinois Register Citation
140.481	Amendment	August 20, 1999 (23 Ill. Reg. 9733)
140.497	Amendment	August 20, 1999 (23 Ill. Reg. 9733)

15) Summary and Purpose of Amendments: These amendments to the Department's rules regarding clinic services are intended to implement the School Based/Linked Clinic Program as a specific provider type under the Department's Medical Assistance Program. School based/linked health centers have been providing services for a number of years with Medicaid eligible students receiving coverage on a case-by-case, fee-for-service basis. However, in an effort to insure that eligible students receive necessary health care services, the Department has submitted a State Plan Amendment to the Health Care Financing Administration concerning recognition of school based/linked health centers as a specific provider type. The State Plan Amendment was approved on December 22, 1998.

The Department has worked with the Department of Human Services (DHS) and advocates for student health care services in developing the school health center initiative to improve access to necessary services. Recognition of such health centers as a specific provider type under Medicaid is being implemented in conjunction with DHS as the certification entity. These rules, found at 77 Ill. Adm. Code 2200, describe DHS certification standards and reflect the School Based Health Clinic Guidelines, implemented in 1986, as a guide for the centers. These guidelines have been used as the basis for planning, development, monitoring, evaluation and quality assurance. They have provided standards in areas including community outreach, administration and organizational structure, confidentiality of services, professional staffing and work requirements, record maintenance, health education requirements, release of information, scope of services, compliance and access standards, care coordination and student rights and responsibilities. Medical services provided by school based/linked health centers must also be in compliance with the Guidelines of the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists.

The mission of school based/linked health centers is to improve the overall physical and emotional health of students by promoting healthy lifestyles and by providing available and accessible preventive health care when it is needed. The specific goals of such centers are to improve student knowledge of preventive health care; provide early detection and early treatment of chronic and acute health problems; improve decision making about health matters and reduce risk-taking behaviors; develop health promoting behaviors; provide preventive care; provide initial

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emergency treatments and appropriate subsequent referrals; detect signs of emotional stress requiring treatment, counseling or referral; facilitate the use of health care systems by establishing links with primary health care providers; and promote continuing comprehensive health care for students.

School based health centers are located in schools or on school grounds and serve at least the students attending that school. School linked health centers are located off school grounds and a formal relationship exists to serve students attending a particular school or multiple schools within the district. Services are available to eligible students who have obtained written parental consent, or who are 18 yeas of age, or who are otherwise able to give their own consent.

The Department expects any budgetary impact resulting from these proposed amendments to be minimal since services have been covered for eligible clients in school based/linked centers for a number of years.

16) Information and questions regarding these adopted amendments shall be directed to:

Joanne Jones
Rules Manager
Office of the General Counsel
Illinois Department of Public Aid
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763-0002
(217) 524-0081

The full text of the adopted amendments begins on the next page:

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER d: MEDICAL PROGRAMS

PART 140
MEDICAL PAYMENT

SUBPART A: GENERAL PROVISIONS

Section

SUBPART B: MEDICAL PROVIDER PARTICIPATION

Section

DEPARTMENT OF PUBLIC AID

NOTICE OF ADOPTED AMENDMENTS

SUBPART C: PROVIDER ASSESSMENTS

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SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

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SUBPART E: GROUP CARE

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SUBPART F: MEDICAID PARTNERSHIP PROGRAM

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SUBPART G: MATERNAL AND CHILD HEALTH PROGRAM

SUBPART H: ILLINOIS COMPETITIVE ACCESS AND REIMBURSEMENT EQUITY (ICARE) PROGRAM

DEPARTMENT OF PUBLIC AID

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AUTHORITY: Implementing and authorized by Articles III, IV, V, VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI and 12-13].

SOURCE: Adopted at 3 Ill. Reg. 24, p. 166, effective June 10, 1979; rule repealed and new rule adopted at 6 Ill. Reg. 8374, effective July 6, 1982; emergency amendment at 6 Ill. Reg. 8508, effective July 6, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 681, effective December 30, 1982; amended at 7 Ill. Reg. 7956, effective July 1, 1983; amended at 7 Ill. Reg. 8308, effective July 1, 1983; amended at 7 Ill. Reg. 8271, effective July 5, 1983; emergency amendment at 7 Ill. Reg. 8354, effective July 5, 1983, for a maximum of 150 days; amended at 7 Ill. Reg. 8540, effective July 15, 1983; amended at 7 Ill. Reg. 9382, effective July 22, 1983; amended at 7 Ill. Reg. 12868, effective September 20, 1983; peremptory amendment at 7 Ill. Reg. 15047, effective October 31, 1983; amended at 7 Ill. Reg. 17358, effective December 21, 1983; amended at 8 Ill. Reg. 254, effective December 21, 1983; emergency amendment at 8 Ill. Reg. 580, effective January 1, 1984, for a maximum of 150 days; codified at 8 Ill. Reg. 2483; amended at 8 Ill. Reg. 3012, effective February 22, 1984; amended at 8 Ill. Reg. 5262, effective April 9, 1984; amended at 8 Ill. Reg. 6785, effective April 27, 1984; amended at 8 Ill. Reg. 6983, effective May 9, 1984; amended at 8 Ill. Reg. 7258, effective May 16, 1984; emergency amendment at 8 Ill. Reg. 7910, effective May 22, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7910, effective June 1, 1984; amended at 8 Ill. Reg. 10032, effective June 18, 1984; emergency amendment at 8 Ill. Reg. 10062, effective June 20, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 13343, effective July 17, 1984; amended at 8 Ill. Reg. 13779, effective July 24, 1984; Sections 140.72 and 140.73 recodified to 89 Ill. Adm. Code 141 at 8 Ill. Reg. 16354; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 17899; peremptory amendment at 8 Ill. Reg. 18151, effective September 18, 1984; amended at 8 Ill. Reg. 21629, effective October 19, 1984; peremptory amendment at 8 Ill. Reg. 21677, effective October 24, 1984; amended at 8 Ill. Reg. 22097, effective October 24, 1984; peremptory amendment at 8 Ill. Reg. 22155, effective October 29, 1984; amended at 8 Ill. Reg. 23218, effective November 20, 1984; emergency amendment at 8 Ill. Reg. 23721, effective November 21, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 25067, effective December 19, 1984; emergency amendment at 9 Ill. Reg. 407, effective January 1, 1985, for a maximum of 150 days;

amended at 9 Ill. Reg. 2697, effective February 22, 1985; amended at 9 Ill. Reg. 6235, effective April 19, 1985; amended at 9 Ill. Reg. 8677, effective May 28, 1985; amended at 9 Ill. Reg. 9564, effective June 5, 1985; amended at 9 Ill. Reg. 10025, effective June 26, 1985; emergency amendment at 9 Ill. Reg. 11403, effective June 27, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11357, effective June 28, 1985; amended at 9 Ill. Reg. 12000, effective July 24, 1985; amended at 9 Ill. Reg. 12306, effective August 5, 1985; amended at 9 Ill. Reg. 13998, effective September 3, 1985; amended at 9 Ill. Reg. 14684, effective September 13, 1985; amended at 9 Ill. Reg. 15503, effective October 4, 1985; amended at 9 Ill. Reg. 16312, effective October 11, 1985; amended at 9 Ill. Reg. 19138, effective December 2, 1985; amended at 9 Ill. Reg. 19737, effective December 9, 1985; amended at 10 Ill. Reg. 238, effective December 27, 1985; emergency amendment at 10 Ill. Reg. 798, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 672, effective January 6, 1986; amended at 10 Ill. Reg. 1206, effective January 13, 1986; amended at 10 Ill. Reg. 3041, effective January 24, 1986; amended at 10 Ill. Reg. 6981, effective April 16, 1986; amended at 10 Ill. Reg. 7825, effective April 30, 1986; amended at 10 Ill. Reg. 8128, effective May 7, 1986; emergency amendment at 10 Ill. Reg. 8912, effective May 13, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 11440, effective June 20, 1986; amended at 10 Ill. Reg. 14714, effective August 27, 1986; amended at 10 Ill. Reg. 15211, effective September 12, 1986; emergency amendment at 10 Ill. Reg. 16729, effective September 18, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 18808, effective October 24, 1986; amended at 10 Ill. Reg. 19742, effective November 12, 1986; amended at 10 Ill. Reg. 21784, effective December 15, 1986; amended at 11 Ill. Reg. 698, effective December 19, 1986; amended at 11 Ill. Reg. 1418, effective December 31, 1986; amended at 11 Ill. Reg. 2323, effective January 16, 1987; amended at 11 Ill. Reg. 4002, effective February 25, 1987; Section 140.71 recodified to 89 Ill. Adm. Code 141 at 11 Ill. Reg. 4302; amended at 11 Ill. Reg. 4303, effective March 6, 1987; amended at 11 Ill. Reg.7664, effective April 15, 1987; emergency amendment at 11 Ill. Reg. 9342, effective April 20, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9169, effective April 28, 1987; amended at 11 Ill. Reg. 10903, effective June 1, 1987; amended at 11 Ill. Reg. 11528, effective June 22, 1987; amended at 11 Ill. Reg. 12011, effective June 30, 1987; amended at 11 Ill. Reg. 12290, effective July 6, 1987; amended at 11 Ill. Reg. 14048, effective August 14, 1987; amended at 11 Ill. Reg. 14771, effective August 25, 1987; amended at 11 Ill. Reg. 16758, effective September 28, 1987; amended at 11 Ill. Reg. 17295, effective September 30, 1987; amended at 11 Ill. Reg. 18696, effective October 27, 1987; amended at 11 Ill. Reg. 20909, effective December 14, 1987; amended at 12 Ill. Reg. 916, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1960, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 5427, effective March 15, 1988; amended at 12 Ill. Reg. 6246, effective March 16, 1988; amended at 12 Ill. Reg. 6728, effective March 22, 1988; Sections 140.900 thru 140.912 and 140.Table H and 140.Table I recodified to 89 Ill. Adm. Code 147.5 thru 147.205 and 147.Table A and 147.Table B at 12 Ill. Reg. 6956; amended at 12 Ill. Reg. 6927, effective April 5, 1988; Sections 140.940 thru 140.972 recodified to 89 Ill. Adm. Code 149.5 thru 149.325 at 12

Ill. Reg. 7401; amended at 12 Ill. Reg. 7695, effective April 21, 1988; amended at 12 Ill. Reg. 10497, effective June 3, 1988; amended at 12 Ill. Reg. 10717, effective June 14, 1988; emergency amendment at 12 Ill. Reg. 11868, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12509, effective July 15, 1988; amended at 12 Ill. Reg. 14271, effective August 29, 1988; emergency amendment at 12 Ill. Reg. 16921, effective September 28, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 16738, effective October 5, 1988; amended at 12 Ill. Reg. 17879, effective October 24, 1988; amended at 12 Ill. Reg. 18198, effective November 4, 1988; amended at 12 Ill. Reg. 19396, effective November 6, 1988; amended at 12 Ill. Reg. 19734, effective November 15, 1988; amended at 13 Ill. Reg. 125, effective January 1, 1989; amended at 13 Ill. Reg. 2475, effective February 14, 1989; amended at 13 Ill. Reg. 3069, effective February 28, 1989; amended at 13 Ill. Reg. 3351, effective March 6, 1989; amended at 13 Ill. Reg. 3917, effective March 17, 1989; amended at 13 Ill. Reg. 5115, effective April 3, 1989; amended at 13 Ill. Reg. 5718, effective April 10, 1989; amended at 13 Ill. Reg. 7025, effective April 24, 1989; Sections 140.850 thru 140.896 recodified to 89 Ill. Adm. Code 146.5 thru 146.225 at 13 Ill. Reg. 7040; amended at 13 Ill. Reg. 7786, effective May 20, 1989; Sections 140.94 thru 140.398 recodified to 89 Ill. Adm. Code 148.10 thru 148.390 at 13 Ill. Reg. 9572; emergency amendment at 13 Ill. Reg. 10977, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 11516, effective July 3, 1989; amended at 13 Ill. Reg. 12119, effective July 7, 1989; Section 140.110 recodified to 89 Ill. Adm. Code 148.120 at 13 Ill. Reg. 12118; amended at 13 Ill. Reg. 12562, effective July 17, 1989; amended at 13 Ill. Reg. 14391, effective August 31, 1989; emergency amendment at 13 Ill. Reg. 15473, effective September 12, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 16992, effective October 16, 1989; amended at 14 Ill. Reg. 190, effective December 21, 1989; amended at 14 Ill. Reg. 2564, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 3241, effective February 14, 1990, for a maximum of 150 days; emergency expired July 14, 1990; amended at 14 Ill. Reg. 4543, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 4577, effective March 6, 1990, for a maximum of 150 days; emergency expired August 3, 1990; emergency amendment at 14 Ill. Reg. 5575, effective April 1, 1990, for a maximum of 150 days; emergency expired August 29, 1990; emergency amendment at 14 Ill. Reg. 5865, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 7141, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10062, effective June 12, 1990; amended at 14 Ill. Reg. 10409, effective June 19, 1990; emergency amendment at 14 Ill. Reg. 12082, effective July 5, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13262, effective August 6, 1990; emergency amendment at 14 Ill. Reg. 14184, effective August 16, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 14570, effective August 22, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14826, effective August 31, 1990; amended at 14 Ill. Reg. 15366, effective September 12, 1990; amended at 14 Ill. Reg. 15981, effective September 21, 1990; amended at 14 Ill. Reg. 17279, effective October 12, 1990; amended at 14 Ill. Reg. 18057, effective October 22, 1990; amended at 14 Ill. Reg. 18508, effective

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October 30, 1990; amended at 14 Ill. Reg. 18813, effective November 6, 1990; amended at 14 Ill. Reg. 20478, effective December 7, 1990; amended at 14 Ill. Reg. 20729, effective December 12, 1990; amended at 15 Ill. Reg. 298, effective December 28, 1990; emergency amendment at 15 Ill. Reg. 592, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 1051, effective January 18, 1991; Section 140.569 withdrawn at 15 Ill. Reg. 1174; amended at 15 Ill. Reg. 6220, effective April 18, 1991; amended at 15 Ill. Reg. 6534, effective April 30, 1991; amended at 15 Ill. Reg. 8264, effective May 23, 1991; amended at 15 Ill. Reg. 8972, effective June 17, 1991; amended at 15 Ill. Reg. 10114, effective June 21, 1991; amended at 15 Ill. Reg. 10468, effective July 1, 1991; amended at 15 Ill. Reg. 11176, effective August 1, 1991; emergency amendment at 15 Ill. Reg. 11515, effective July 25, 1991, for a maximum of 150 days; emergency expired December 22, 1991; emergency amendment at 15 Ill. Reg. 12919, effective August 15, 1991, for a maximum of 150 days; emergency expired January 12, 1992; emergency amendment at 15 Ill. Reg. 16366, effective October 22, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 17318, effective November 18, 1991; amended at 15 Ill. Reg. 17733, effective November 22, 1991; emergency amendment at 16 Ill. Reg. 300, effective December 20, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 174, effective December 24, 1991; amended at 16 Ill. Reg. 1877, effective January 24, 1992; amended at 16 Ill. Reg. 3552, effective February 28, 1992; amended at 16 Ill. Reg. 4006, effective March 6, 1992; amended at 16 Ill. Reg. 6408, effective March 20, 1992; amended at 16 Ill. Reg. 6849, effective April 7, 1992; amended at 16 Ill. Reg. 7017, effective April 17, 1992; amended at 16 Ill. Reg. 10050, effective June 5, 1992; amended at 16 Ill. Reg. 11174, effective June 26, 1992; expedited correction at 16 Ill. Reg. 11348, effective March 20, 1992; emergency amendment at 16 Ill. Reg. 11947, effective July 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 12186, effective July 24, 1992; emergency amendment at 16 Ill. Reg. 13337, effective August 14, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 15109, effective September 21, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 15561, effective September 30, 1992; amended at 16 Ill. Reg. 17302, effective November 2, 1992; emergency amendment at 16 Ill. Reg. 18097, effective November 17, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19146, effective December 1, 1992; amended at 16 Ill. Reg. 19879, effective December 7, 1992; amended at 17 Ill. Reg. 837, effective January 11, 1993; amended at 17 Ill. Reg. 1112, effective January 15, 1993; amended at 17 Ill. Reg. 2290, effective February 15, 1993; amended at 17 Ill. Reg. 2951, effective February 17, 1993; amended at 17 Ill. Reg. 3421, effective February 19, 1993; amended at 17 Ill. Reg. 6196, effective April 5, 1993; amended at 17 Ill. Reg. 6839, effective April 21, 1993; amended at 17 Ill. Reg. 7004, effective May 17, 1993; expedited correction at 17 Ill. Reg. 7078, effective December 1, 1992; emergency amendment at 17 Ill. Reg. 11201, effective July 1, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 15162, effective September 2, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 18152, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 18571, effective October 8, 1993; emergency amendment at 17 Ill. Reg. 18611, effective October 1, 1993, for a maximum of 150 days; emergency amendment suspended effective October 12, 1993;

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amended at 17 Ill. Reg. 20999, effective November 24, 1993; emergency amendment repealed at 17 Ill. Reg. 22583, effective December 20, 1993; amended at 18 Ill. Reg. 3620, effective February 28, 1994; amended at 18 Ill. Reg. 4250, effective March 4, 1994; amended at 18 Ill. Reg. 5951, effective April 1, 1994; emergency amendment at 18 Ill. Reg. 10922, effective July 1, 1994, for a maximum of 150 days; emergency amendment suspended, effective November 15, 1994; emergency amendment repealed at 19 Ill. Reg. 5839, effective April 4, 1995; amended at 18 Ill. Reg. 11244, effective July 1, 1994; amended at 18 Ill. Reg. 14126, effective August 29, 1994; amended at 18 Ill. Reg. 16675, effective November 1, 1994; amended at 18 Ill. Reg. 18059, effective December 19, 1994; amended at 19 Ill. Reg. 1082, effective January 20, 1995; amended at 19 Ill. Reg. 2933, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 3529, effective March 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 5663, effective April 1, 1995; amended at 19 Ill. Reg. 7919, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 8455, effective June 9, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 9297, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 10252, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13019, effective September 5, 1995; amended at 19 Ill. Reg. 14440, effective September 29, 1995; emergency amendment at 19 Ill. Reg. 14833, effective October 6, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15441, effective October 26, 1995; amended at 19 Ill. Reg. 15692, effective November 6, 1995; amended at 19 Ill. Reg. 16677, effective November 28, 1995; amended at 20 Ill. Reg. 1210, effective December 29, 1995; amended at 20 Ill. Reg. 4345, effective March 4, 1996; amended at 20 Ill. 5858, effective April 5, 1996; amended at 20 Ill. Reg. 6929, effective May 6, 1996; amended at 20 Ill. Reg. 7922, effective May 31, 1996; amended at 20 Ill. Reg. 9081, effective June 28, 1996; emergency amendment at 20 Ill. Reg. 9312, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 11332, effective August 1, 1996; amended at 20 Ill. Reg. 14845, effective October 31, 1996; emergency amendment at 21 Ill. Reg. 705, effective December 31, 1996, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 3734, effective March 5, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 4777, effective April 2, 1997; amended at 21 Ill. Reg. 6899, effective May 23, 1997; amended at 21 Ill. Reg. 9763, effective July 15, 1997; amended at 21 Ill. Reg. 11569, effective August 1, 1997; emergency amendment at 21 Ill. Reg. 13857, effective October 1, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 1416, effective December 29, 1997; amended at 22 Ill. Reg. 4412, effective February 27, 1998; amended at 22 Ill. Reg. 7024, effective April 1, 1998; amended at 22 Ill. Reg. 10606, effective June 1, 1998; emergency amendment at 22 Ill. Reg. 13117, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16302, effective August 28, 1998; amended at 22 Ill. Reg. 19898, effective October 30, 1998; emergency amendment at 22 Ill. Reg. 22108, effective December 1, 1998, for a maximum of 150 days; emergency expired April 29, 1999; amended at 23 Ill. Reg. 5796, effective April 30, 1999; amended at 23 Ill. Reg. 7122, effective June 1, 1999; emergency amendment at 23 Ill. Reg. 8236, effective July 1, 1999; for a maximum of 150 days; amended at 23 Ill. Reg. 9874, effective August 3, 1999; amended at 23 Ill. Reg. 12697, effective October 1, 1999; amended at 23 Ill. Reg. 13646,

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effective November 1, 1999; amended at 23 Ill. Reg. 14567, effective DEC 1 1999.

SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

Section 140.461 Clinic Participation, Data and Certification Requirements

a) Hospital-based organized clinics must:
   1) Have an administrative structure, staff program, physical setting, and equipment to provide comprehensive medical care;
   2) Agree to assume complete responsibility for diagnosis and treatment of the patients accepted by the clinic, or provide, at no additional cost to the Department, for the acquisition of these services through contractual arrangements with external medical providers;
   3) Be adjacent to or on the premises of the hospital and be licensed under the Hospital Licensing Act or the University of Illinois Hospital Act; and
   4) Meet the applicable requirements of 89 Ill. Adm. Code 148.40(d).

b) Encounter rate clinics must participate in the Medical Assistance Program as an encounter rate clinic as of July 1, 1998, or be a clinic operated by a county with a population of over three million. Individual practitioners associated with such centers may apply for participation in the Medical Assistance Program in their individual capacities. In order to participate in the Maternal and Child Health Program, as described in Subpart G, encounter rate clinics shall be required to meet the additional participation requirements described in Section 140.924(a)(2).

c) Rural health clinics must be certified by the Health Care Financing Administration as meeting the requirements for Medicare participation.

d) Federally Qualified Health Centers (FQHC):
   1) Must be Health Centers which:
      A) receive a grant under Section 329, 330 or 340 of the Public Health Service Act; or
      B) based on the recommendation of the Health Resources and Services Administration within the Public Health Service, are determined to meet the requirements for receiving such a grant.
   2) Section 4602 of the Omnibus Budget Reconciliation Act of 1990 (OBRA 90), which amended Section 1902(a)(55) of the Social Security Act (42 USC Section 1396a(a)(55), requires states to receive and initially process Medicaid applications from low-income pregnant women and children under 19 years of age ~~the age of 19~~ at locations other than the local Department of Human Services (DHS) office. Such a site is referred to as an outstation.
      A) Outstations will be located at those FQHCs which the Department determines serve heavy Medicaid populated areas.

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For areas in which the Department determines that maintaining outstation workers is not economical, the DHS local office will continue to be the application location.

B) The FQHCs, which will provide outstation eligibility staff to accept and assist in the initial processing of the Medicaid application for pregnant women and children, will forward the completed application to the appropriate DHS local office. Initial processing means accepting and completing the application, providing information and referrals, obtaining required documentation to complete processing of the application, assuring that the information contained on the application form is complete and conducting any necessary interviews. Neither the FQHCs nor the outstation workers will evaluate the information contained on the application, nor make any determination of eligibility or ineligibility. The DHS local office is responsible for these functions.

C) Costs allowable under the federal outstation mandate for completing the Medicaid application will be itemized in Section B of Schedule I of the FQHC Medicaid cost report and will be provided annually in the FQHC cost reporting process. These allowable costs will be collected, computed and calculated, and will result in the establishment of an outstation administrative rate and a Medicaid rate. The allowable costs are:
   i) Salary of outstation worker;
   ii) Fringe benefits;
   iii) Training;
   iv) Travel; and
   v) Supplies.

D) FQHC outstation workers must receive certification through Maternal and Child Health (MCH) process training by the Department before they begin to perform eligibility processing functions. Failure to become certified results in any MCH application completed by an ineligible worker being non-allowed on the cost report.

E) FQHCs must have adequate staff trained with proper backup to accommodate unforeseen problems. FQHCs must be able to meet the demand of this initiative, either using staff at one location or rotating staff as dictated by workload or staffing availability. The FQHC must have staff available at each outstation location during regular office operating hours.

F) Outstation intake staff may perform other FQHC intake processing functions, but the time spent on outstation activities must be documented and must be identifiable for cost reporting and auditing purposes.

G) The FQHC must display a notice in a prominent place at the

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outstation location advising potential applicants of the times that outstation intake workers will be available. The notice must include a telephone number that applicants may call for assistance.

H) The FQHC must comply with federal and State laws and regulations governing the provision of adequate notice to persons who are blind or deaf or who are unable to read or understand the English language.

e) Individual practitioners associated with such centers may apply for participation in the Medical Assistance Program in their individual capacities.

f) Maternal and Child Health Clinics

1) Types of Clinics

The following clinics shall qualify as Maternal and Child Health Clinics:

A) Certified Hospital Ambulatory Primary Care Centers (CHAPCC), which are hospital-based organized outpatient clinics, as described in subsection (a) above, meeting the participation, data and certification requirements described in subsections (f)(2) through (f)(5) below, that, through staff and supporting resources, provide ambulatory primary care to Medicaid children from birth through 20 years of age, and pregnant women in a non-emergency room setting. At least 50 percent of all staff physicians providing care in a CHAPCC must routinely provide obstetric, pediatric, internal medicine, or family practice care in the clinic setting, and at least 50 percent of patient visits to the CHAPCC must be for primary care.

B) Certified Hospital Organized Satellite Clinics (CHOSC), which are clinics meeting the participation, data and certification requirements described in subsections (f)(2) through (f)(5) below, that are owned, operated, and/or managed by a hospital but do not qualify as hospital-based organized clinics, as described in subsection (a) above, because they are not located adjacent to or on the premises of the hospital or are not licensed under the Hospital Licensing Act or the University of Illinois Hospital Act. Through staff and supporting resources, these clinics provide ambulatory primary care in a non-emergency setting to Medicaid children from birth through 20 years of age, and to pregnant women. At least 50 percent of all staff physicians providing care in a CHOSC must routinely provide obstetric, pediatric, internal medicine, or family practice care in the clinic setting, and at least 50 percent of patient visits to the CHOSC must be for primary care. Primary care consists of basic health services provided by a physician or other qualified medical professional to maintain the day-to-day health status of a patient, without

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requiring the level of medical technology and specialized expertise necessary for the provision of secondary and tertiary care. CHOSCs shall meet the requirements in subsections (a)(1) and (a)(2) above.

C) Certified Obstetrical Ambulatory Care Centers (COBACC), which are hospital-based organized clinic entities, as described in subsection (a) above, meeting the participation, data and certification requirements described in subsections (f)(2) through (f)(5) below, that, through staff and supporting resources, provide primary care and specialty services to Medicaid-eligible pregnant women, especially those determined to be non-compliant or at high risk, in an outpatient setting.

D) Certified Pediatric Ambulatory Care Centers (CPACC), which are hospital-based organized clinic entities, as described in subsection (a) above, owned and operated by a hospital as described in 89 Ill. Adm. Code 149.50(c)(3), and meeting the participation, data and certification requirements described in subsections (f)(2) through (f)(5) below, that, through staff and supporting resources, provide pediatric primary care and specialty services as described in Section 140.462(e)(3)(C) to Medicaid enrolled children with specialty needs, from birth through 20 years of age in an outpatient setting. Hospitals with CPACCs must also provide primary care for at least 1,500 children, either through its CPACC or through a CHAPCC, CHOSC or encounter rate clinic operated by the same hospital. Hospitals unable to meet this volume requirement must agree to serve as a specialty referral site for another hospital operating a CPACC through a written agreement submitted to the Department.

2) General Participation Requirements

In addition to the Maternal and Child Health participation requirements described in Section 140.924(a)(1), the Maternal and Child Health clinics identified in subsection (f)(1) above must:

A) Be operated by a disproportionate share hospital, as described in 89 Ill. Adm. Code 148.120, be staffed by board certified/eligible physicians who have hospital admitting and/or delivery privileges, be operated by a hospital in an organized corporate network of hospitals having a total of more than 1,000 staffed beds, and agree to provide care for a minimum of 100 pregnant women or children; or be a primary care teaching site of an organized academic department of:

i) In the case of clinics described in subsections (f)(1)(A) and (f)(1)(B) above, a pediatric or family practice residency program accredited by the American Accreditation Council for Graduate Medical Education or other published source of accrediting information.

ii) In the case of clinics described in subsection

(f)(1)(C) above, an obstetrical residency program accredited by the American Accreditation Council for Graduate Medical Education or other published source of accrediting information with at least 130 full-time equivalent residents.

iii) In the case of clinics described in subsection (f)(1)(D) above, a pediatric or family practice residency program accredited by the American Accreditation Council for Graduate Medical Education or other published source of accrediting information with at least 130 full-time equivalent residents;

B) Under the direction of a board certified/eligible physician who has hospital admitting and/or delivery privileges and provides direct supervision to residents practicing in the certified ambulatory site, provide:

i) In the case of clinics described in subsections (f)(1)(A) and (f)(1)(B) above, primary care.

ii) In the case of clinics described in subsection (f)(1)(C) above, obstetric and specialty services.

iii) In the case of clinics described in subsection (f)(1)(D) above, primary care and specialty services;

C) Maintain a formal, ongoing quality assurance program that meets the minimum standards of the Joint Commission on Accreditation of Health Care Organizations (JCAHO);

D) Provide historical evidence of fiscal solvency and financial projections for the future, in a manner specified by the Department; and

E) Utilize a formal client tracking and care management system that affords timely maintenance of, access to, and continuity of medical records without compromising client confidentiality.

3) Special Participation Requirements

In addition to the Maternal and Child Health provider participation requirements described in Section 140.924(a)(1), and the general participation requirements described in subsection (f)(2) above, special participation requirements shall apply as follows:

A) Clinics described in subsections (f)(1)(A) and (f)(1)(B) above must:

i) Serve a total population that includes at least 20 percent% Medicaid and medically indigent clients;

ii) Perform a risk assessment on pregnant women assigned to them in order to determine if the woman is at high risk; and

iii) Provide or arrange for specialty services when needed by pregnant women or children.

B) Clinics described in subsection (f)(1)(C) must:

i) Be a distinct department of a hospital that also

operates as a Level II or Level III perinatal center;

ii) Provide services to pregnant women demonstrating the need for extensive health care services due to complicated medical conditions placing them potentially at high risk of abnormal delivery, including substance abuse or addiction problems. Hospital clinics will not qualify to participate unless they provide both primary and specialty services to women who currently are Medicaid clients, or Medicaid-eligible women who receive services at the COBACC; in this capacity, COBACCs, as perinatal centers, shall serve pregnant women determined to be at high risk of abnormal delivery;

iii) Operate a designated 24-hour per day emergency referral site with a defined practice for the care of obstetric emergencies;

iv) Have an established program of services for the treatment of substance-abusing pregnant women;

v) Integrate an accredited obstetrical residency program with subspecialty residency programs to encourage future physicians to devote part of their professional services to disadvantaged and underserved high-risk pregnant women; and

vi) Operate organized ambulatory clinics for pregnant women that are easily accessible to the medically underserved.

C) Clinics described in subsection (f)(1)(D) above must:

i) Provide primary and specialty services for children demonstrating the need for extensive health care services due to a chronic condition as described in Section 140.462(e)(3)(C);

ii) Operate a designated 24-hour per day emergency referral site with a defined practice for the care of pediatric emergencies;

iii) Provide access to necessary pediatric primary and specialty services within 24 hours after referral;

iv) Be a distinct department of a disproportionate share hospital, as described in 89 Ill. Adm. Code 148.120(a)(5);

v) Integrate an accredited pediatric or family practice residency program with subspecialty residency programs to encourage future physicians to devote part of their professional services to disadvantaged and underserved children with specialty needs; and

vi) Operate organized ambulatory clinics for children that are easily accessible to the medically underserved.

4) Data Requirements

The Maternal and Child Health clinics described in subsection

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(f)(1) above shall be required to submit patient level historical data to the Department, which may include, but shall not be limited to historical data on the use of the hospital emergency room department.

5) Certification Requirements
Certification of qualifying status of a Maternal and Child Health clinic identified in subsection (f)(1) above shall occur annually during the first two years of participation and every other year thereafter. In addition:

A) The certification process shall consist of a review of the completed application and related materials to determine provisional certification status. Those centers submitting approved applications shall then be reviewed on-site by Department staff within 60 days after application approval. Final notification of certification status shall be rendered within 30 days after the site review, pending provider submittal of a written plan of correction for any deficiencies discovered during the entire application process.

B) Entities interested in becoming a Maternal and Child Health clinic must direct a written request for an application packet to the following address:

Maternal and Child Health Clinic
Certification
Bureau of Comprehensive Health Services
Illinois Department of Public Aid
201 South Grand Avenue East, Concourse
Springfield, Illinois 62763-0001

C) Certification status shall be suspended for Maternal and Child Health clinics identified in subsection (f)(1) above that do not submit data to the Department, as required under subsection (f)(4) above, within 180 days after the Department's request for the submittal of such data.

g) School Based/Linked Health Clinics (centers) must be certified by the Department of Human Services (DHS) that they are meeting the minimum standards established by DHS (77 Ill. Adm. Code 2200). Examples of certification requirements include:

1) School based health centers must be located in schools or on school grounds, serving at least the students attending that school.

2) School linked health centers are located off school grounds, but a formal relationship must exist to serve students attending a particular school or multiple schools within the district.

3) All medical services performed by mid-level practitioners (i.e., medical services providers who are not physicians), such as nurse practitioners (see Section 140.400), must be under the direction of a physician.

4) The center must have a medical director. The medical director of

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the center must be a qualified physician, licensed in Illinois to practice medicine in all its branches. Each center's medical director must develop standing orders and protocols for services provided at the center. The medical director shall ensure compliance with the policies and procedures pertaining to medical procedures and health care services. The medical director shall supervise the medical protocols involving direct care of students. The center must have consultant or back-up physicians with hospital admitting privileges. The consultant provider of the clinic for obstetrical care, as appropriate, must have delivery privileges. All medical services must be delivered in accordance with the American College of Obstetricians and Gynecologists, the American Academy of Pediatrics, the American Academy of Family Practice Guidelines and the standards established by outside regulatory agencies.

5) All laboratory services must be in compliance with the Clinical Laboratory Improvement Amendments (CLIA) of 1988 (42 USC 263a). DHS will provide ongoing monitoring to assure that appropriate standards are followed.

6) The center shall be staffed by Illinois licensed, registered, and/or certified health professionals who are trained and experienced in community and school health, and who have knowledge of health promotion and illness prevention strategies for children and adolescents. The center must ensure that staff are assigned responsibilities consistent with their education and experience, supervised, evaluated annually and trained in the policies and procedures of the center.

7) The center must establish procedures for the availability of primary care providers and for 24-hour per day, 12-month per year access to routine, urgent and emergency care, telephone appointments and advice. The center must have in place telephone answering methods that notify students and parents/guardians where and how to access 24-hour back-up services when the center is not open.

8) Services may be provided to eligible students who have obtained written parental consent, or who are 18 years of age, and/or who are otherwise able to give their own consent.

9) The center must coordinate care and the exchange of information necessary for the provision of health care of the student, between the center and a student's primary care practitioner, medical specialist or managed care entity. Written policies must address obtaining student and/or parental consent to share information regarding a student's health care.

10) The center must operate in accordance with a systematic process for referring students to community-based health care providers when the center is not able to provide the services required by the student. The center may provide medical care to a Managed Care Entity (MCE) enrolled student. The center shall refer that

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MCE enrolled student to the MCE primary care provider for continuing and definitive care.

A) The center shall refer a student who requires specialty medical and/or surgical services to his or her primary care provider or MCE to obtain a referral for a specialist.

B) The center shall document in the student's record that the referral was made, and document follow-up on the outcome of the referral when relevant to the health care provided by the center.

11) The center must develop a collaborative relationship with other health care providers, insurers, managed care organizations, the school health program, students and parents or guardians with the goal of assuring continuity of care, pertinent medical record sharing and reducing duplication and fragmentation of services.

12) Data Requirements
The center shall maintain a health record system that provides for consistency, confidentiality, storage and security of records for documenting significant student health information and the delivery of health care services.

(Source: Amended at 23 Ill. Reg. 14567, effective DEC - 1 1999)

Section 140.462 Covered Services in Clinics

Payment shall be made to clinics for the following types of services when provided by, or under the direction of, a physician:

a) Hospital-based organized clinics
   1) With respect to those hospital-based organized clinics that qualify as Maternal and Child Health clinics, as described in Section 140.461(f)(1), covered services are those described in subsection (a) below, as appropriate.
   2) With respect to all other hospital-based organized clinics, covered services are those described in 89 Ill. Adm. Code 148.

b) Encounter rate clinics
   1) With respect to those encounter rate clinics that qualify as Maternal and Child Health providers, as described in Section 140.924(a)(2)(B), covered services are those described in Section 140.922.
   2) With respect to all other encounter rate clinics, covered services are medical services which provide for the continuous health care needs of persons who elect to use this type of service.

c) Rural health clinics
   1) Physician's services, including covered services of nurse practitioners, nurse midwives and physician-supervised physician assistants.
   2) Medically-necessary services and supplies furnished as an incident to a physician's professional services.

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d) Federally Qualified Health Centers
Covered services are the following services, when delivered in a clinic setting as described in 42 CFR 440.90 (1989):
   1) Physician's services, including covered services of nurse midwives, nurse practitioners and physician-supervised physician assistants; and
   2) Medically-necessary services and supplies furnished by or under the direction of a physician or dentist within the scope of licensed practice, including:
      A) medical case management;
      B) laboratory services;
      C) occupational therapy;
      D) patient transportation;
      E) pharmacy services;
      F) physical therapy;
      G) podiatric services for persons under 21 years of age;
      H) psychological services;
      I) services required to be provided by Section 329.330 or 340 of the Public Health Service Act;
      J) speech and hearing services;
      K) x-ray services;
      L) health education;
      M) dental services for persons under 21 years of age; and
      N) nutrition services.

e) Maternal and Child Health Clinics
Payment shall be made to the Maternal and Child Health clinics identified in Section 140.461(f)(1) for the following services when provided by, or under the direction of, a physician:
   1) In the case of clinics described in Sections 140.461(f)(1)(A) and 140.461(f)(1)(B), primary care services delivered by the clinic, which must include, but are not necessarily limited to:
      A) Early, periodic, screening, diagnostic, and treatment (EPSDT) services as defined in Section 140.485;
      B) Childhood risk assessments to determine potential need for mental health and substance abuse assessment and/or treatment;
      C) Regular immunizations for the prevention of childhood diseases;
      D) Follow-up ambulatory medical care deemed necessary, recommended, or prescribed by a physician as a result of an EPSDT screening;
      E) Routine prenatal care, including risk assessment, for pregnant women; and
      F) Specialty care as medically needed.
   2) In the case of clinics described in Section 140.461(f)(1)(C), primary care and specialty services delivered by the clinic, which must include, but are not necessarily limited to:

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A) Prenatal care, including risk assessment (one risk assessment per pregnancy);
B) All ambulatory treatment services deemed medically necessary, recommended, or prescribed by a physician as the result of the assessment; and
C) Services to pregnant women with diagnosed substance abuse or addiction problems.

3) In the case of clinics described in Section 140.461(f)(1)(D):
A) Comprehensive medical and referral services.
B) Primary care services, which must include, but are not necessarily limited to:
i) early, periodic, screening, diagnostic, and treatment (EPSDT) services as defined in Section 140.485;
ii) regular immunizations for the prevention of childhood diseases; and
iii) follow-up ambulatory medical care deemed necessary, recommended, or prescribed by a physician as the result of an EPSDT screening.
C) Pediatric specialty services, which must include, at a minimum, necessary treatment for:
i) asthma,
ii) congenital heart disease,
iii) diabetes, and
iv) sickle cell anemia.
D) Ambulatory treatment for other medical conditions as specified in the center's certificate application and as approved by the Department.

f) School Based/Linked Health Clinics (Centers)
Covered services are the following services, when delivered in a school based/linked health center setting as described in Section 140.461(g)):
1) Basic medical services: well child or adolescent exams, consisting of a comprehensive health history, complete physical assessment, screening procedures and age appropriate anticipatory guidance; immunizations; EPSDT services; diagnosis and treatment of acute illness and injury; basic laboratory tests; prescriptions and dispensing of commonly used medications for identified health conditions, in accordance with Medical Practice and Pharmacy Practice Acts; and acute management and on-going monitoring of chronic conditions, such as asthma, diabetes and seizure disorders.
2) Reproductive health services: gynecological exams; diagnosis and treatment of sexually transmitted diseases; family planning; prescribing and dispensing of birth control or referral for birth control services; pregnancy testing; treatment or referral for prenatal and postpartum care; and cancer screening.

(Source: Amended at 23 Ill. Reg. 14567, effective

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NOTICE OF ADOPTED AMENDMENTS

DEC - 1 1999)

ILLINOIS RACING BOARD

NOTICE OF ADOPTED REPEALER

1) Heading of the Part: Race Track Improvement Fund

2) Code Citation: 11 Ill. Adm. Code 404

3)

Section Number:	Adopted Action:
404.10	Repealed
404.20	Repealed
404.30	Repealed
404.40	Repealed
404.50	Repealed
404.60	Repealed
404.70	Repealed
404.80	Repealed
404.90	Repealed
404.100	Repealed
404.110	Repealed
404.200	Repealed

4) Statutory Authority: 230 ILCS 5/9(b)

5) Effective Date of Repealer: January 1, 2000

6) Does this rulemaking contain an automatic repeal date? No

7) Does this amendment contain incorporation by reference? No

8) A copy of the adopted repealer, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: July 30, 1999 at 23 Ill. Reg. 8625

10) Has JCAR issued a Statement of Objection to this repealer? No

11) Differences between proposal and final version: The Administrative Code Division requested several nonsubstantive format changes to the file version of this repealer. Those changes are not reflected in this notice since this Part is being repealed. Those changes are reflected in the file version.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the letter issued by JCAR? Yes

13) Will this repealer replace an emergency repealer currently in effect? No

14) Are there any other proposed amendments pending in this Part? No

ILLINOIS RACING BOARD

NOTICE OF ADOPTED REPEALER

15) Summary and purpose of Repealer: The amendment to Section 26.1 of the Act repealed all provisions of the Race Track Improvement Fund (RTIF). This rulemaking repeals all administrative rules regarding RTIF.

16) Information and questions regarding this adopted repealer shall be directed to:

Gina DiCaro
Illinois Racing Board
100 West Randolph, Suite 11-100
Chicago, Illinois 60601
(312) 814-5070

BOARD OF TRUSTEES OF THE UNIVERSITY OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Program Content and Guidelines for Division of Specialized Care for Children

2) Code Citation: 89 Ill. Adm. Code 1200

3)

Section Numbers:	Proposed Action:
1200.20	Amendments
1200.30	Amendments
1200.40	Amendments
1200.50	Amendments
1200.60	Amendments
1200.70	Amendments
1200.80	Amendments
1200.100	Amendments
1200.110	Amendments
1200.Appendix A	Amendments
1200.Appendix B	Repeal

4) Statutory Authority: Implementing Section 1 of the Specialized Care for Children Act [110 ILCS 345] and authorized by Section 1 of the University of Illinois Act [110 ILCS 305].

5) Effective Date of Amendments: December 15, 1999

6) Does this amendment contain an automatic repeal date? No

7) Do these amendments contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in the Illinois Register: May 7, 1999 (23 Ill. Reg. 5486)

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Difference between the proposal and final version:

- In Section 1200.20, add "Child" after "Applicant"
- In Section 1200.30(d)(5)(B), delete "may" and reinstate "shall."
- In Section 1200.50(c)(2) and Appendix A, change "the Federal Register, March 18, 1999, Volume 64, Number 52." to "64 FR 13428, effective March 18, 1999. No subsequent dates or editions are included.".
- In Section 1200.60(b), change "A Child's LRA" to "An LRA of a child."
- In Section 1200.60(b), change "he or she" to "the child."
- In Section 1200.50(c)(6)(D), after the period, add "No current family financial eligibility period will be reduced due to changes in the

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Financial Eligibility Scale effective December 15, 1999, except as noted in subsections (c)(4)(D) and (c)(6)(E)(i) and (iii). No redetermination of financial eligibility will be done for a minimum of one year for families with existing financial eligibility based on the prior Income Scale".

- In Section 1200.100(a), "Qualification/Requirement" is changed to "Qualifications/Requirements.".
- In Section 1200.30(c)(D)(iii), added a parenthesis.
- In Section 1200.60(a)(1), deleted duplicate".".
- In Section 1200.30(c)(2), (c)(2)(D), (c)(4), (d)(5), (d)(8), and Section 1200.40(b)(8), "Financial Support" was changed to "Financial Assistance;"
- In Section 1200.50(c)(2), "Eligibilities" was changed to "Eligibility."
- In Section 1200.80(e)(2)(F), "Recipients" was changed to "Recipient."
- In Section 1200.100(a)(4), "professionals liability coverage" was changed to "professional liability coverage."
- In Section 1200.110(a)(2)(D), the "and" after "Heart Disease" was deleted and a comma inserted.
- In Section 1200.Appendix A, "Proverty" was changed to "Poverty."

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will these amendments replace an emergency amendment currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of the Amendment: Deletion of the following definitions: Adjusted Family Income, Allowable Expenses, Income Scale, Financial Participation Agreement, Partial Financial Assistance, Payment Scale, and all references to these terms, since this method of financial eligibility will no longer be utilized; addition of the definition of Financial Eligibility Scale; identification of child changed to Recipient Child and/or Applicant Child; addition of Associated Health Impairment definition; definition change relating to Financial Assistance to include other payment sources in addition to family's insurance; clarification of the program purpose to include Programmatic Assistance for Care Coordination Activities; deletion of referral source and transportation assistance information from Eligibility Criteria for Diagnostic Services; inclusion of the suspected medically eligible condition to the requirements of Programmatic Assistance for Care Coordination Activities; revision of the term "treatment" to "care coordination"; extension of the eligibility age from 18 to 21 years and limitation of the continuation of the treatment plan to six months beyond the child's 21st birthday; clarification that the Legally Responsible Adult must make maximum use of third party payments; clarification of how long and under what conditions treatment services and financial assistance may continue when the Legally

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Responsible Adult is no longer a resident of Illinois; clarification that it is the responsibility of the Applicant to comply with application deadlines; clarification that the Legally Responsible Adult submits a financial application rather than a statement; clarification that the written eligibility decision is sent to the referring health care provider or professional; clarification of the effective dates of DSCC decision when an appeal of an initial application occurs; clarification that financial information is not required when only Programmatic Assistance for Care Coordination Activities is requested; explanation of Financial Eligibility Scale (Appendix A) and source; addition of "if funds are available" to clarify procedure priority; revision to the time for the submission of claims from a provider/vendor from nine to 18 months from the date services are provided; addition of severe congenital malformation of teeth to specialized dental care; deletion of the specific content of the appeal hearing for the health care professional; addition of specific minimum liability insurance coverage limits required by DSCC for health care professionals, diagnostic and treatment facilities, outpatient therapy centers, medical equipment suppliers and clinical laboratories; exception to the provision of pediatric unit designation when the recipient child is 16 years or older; addition of Association for Accreditation of Ambulatory Health Centers to national standards for diagnostic and treatment facilities; modification of Appendix A to a Financial Eligibility Scale based on 285% of the Federal Poverty Guidelines as published in the Federal Register, March 18, 1999, Volume 64, Number 52; deletion of Appendix B, Payment Scale, and miscellaneous grammatical corrections.

16) Information and questions regarding these amendments shall be directed to:

Charles N. Onufer, M.D., Director
Division of Specialized Care for Children
2815 West Washington, Suite 300
P.O. Box 19481
Springfield, IL 62794-9481
(217) 793-2340 Fax: (217) 793-0773

The full text of the adopted amendments begins on the next page.

BOARD OF TRUSTEES OF THE UNIVERSITY OF ILLINOIS

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER X: THE BOARD OF TRUSTEES OF THE UNIVERSITY OF ILLINOIS

PART 1200
PROGRAM CONTENT AND GUIDELINES FOR DIVISION
OF SPECIALIZED CARE FOR CHILDREN

Section

AUTHORITY: Implementing Section 1 of the Specialized Care for Children Act [110 ILCS 345] and authorized by Section 1 of the University of Illinois Act [110 ILCS 305].

SOURCE: Adopted at 11 Ill. Reg. 3508, effective February 10, 1987; amended at 13 Ill. Reg. 9283, effective June 6, 1989; amended at 14 Ill. Reg. 5136, effective March 22, 1990; amended at 17 Ill. Reg. 1137, effective March 8, 1993; emergency amendment at 17 Ill. Reg. 9735, effective July 1, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 2104, effective January 24, 1994; amended at 21 Ill. Reg. 17114, effective December 11, 1997; amended at 23 Ill. Reg. 14597, effective DEC 15 1999.

Section 1200.20 Definitions

~~Adjusted-Family-Income:--The-amount-equal-to-the-family's-annual-Total Income-as-defined-in-Section-1200.50(d)(2)-less-allowable-expenses--as determined-pursuant-to-Section-1200.50(d)(3).~~

Advisory Board: As established in Section 2 of the Act, physicians or surgeons appointed by the Board of Trustees of the University of Illinois ~~Board-of-Trustees~~ who advise the University of Illinois and the Division on qualifying for Federal funds, make recommendations to the University and the Division regarding the provision of services to children with disabilities, and consult with the Division and the

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University regarding general policy considerations.

~~Allowable--Expenses:--Deductions--from--the--annual--Total--Income--as specified-in-Section-1200.50(d)(3).~~

Amenable to Treatment: Reasonable medical certainty of long term improvement in health status or function as determined by the treating physician.

Annual Total Income: The amount of a family's income determined pursuant to Section 1200.50(d)(2).

Applicant Child: One applying for DSCC eligibility. The term as used in this Part refers to the child.

Assistive Appliance: Equipment intended to support, replace or augment a dysfunctioning or non-functioning part of the body. Such appliances -- which may be mechanical, structural or electrical -- are intended to support specific habilitative objectives determined by the Recipient Child's ~~child's~~ health care providers.

Associated Health Impairment: A chronic or acute medical condition, not DSCC eligible by itself, that interferes with or is a complication of the Medically Eligible Condition or a result of the treatment of the Recipient Child's Medically Eligible Condition and that must be treated to appropriately manage the Medically Eligible Condition.

Authorized Services: Direct medical care and related care for a Recipient Child, as more completely set forth in Section 1200.80(e) of this Part, which DSCC staff has approved for payment.

Child with Disability: An individual below the age of 21 who has a physical impairment or an organic disease, function, defect, or condition which may hinder the achievement of normal growth and/or development.

Chronic Condition: Condition which is expected to be long lasting or to be lifelong.

Completed Application: A signed and dated request for program benefits made by the LRA on a form specified by the agency which contains current, accurate and relevant information in every space required by the form.

Consent: An agreement by a Legally Responsible Adult to a certain course of action involving him/herself or his/her Recipient Child. Such consent will only be valid when the consenting person:

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has been informed by the physician(s) treating a Recipient Child of such foreseeable risks, results, and alternatives to a proposed medical procedure as a reasonable medical practitioner of the same discipline ~~school~~, in the same or similar circumstances, would make known to his/her patients;

agrees in writing to the performance of the procedure for which consent was sought;

has been informed that the granting of consent is voluntary and may be revoked at any time.

Diagnostic Services: Those medical services which provide information necessary to determine an Applicant's ~~a child's~~ medical eligibility for participation in the DSCC treatment program, i.e., whether an Applicant has a Medically Eligible Condition. See Section 1200.40 of this Part. Diagnostic Services shall also include any initial interviews provided as a part of the application process.

Emergency: A medical situation requiring immediate medical care and services to avoid loss of life, permanent loss of good health, or permanent degradation of state of health.

Field Clinic: A community-based clinic which meets on a periodic basis for the purpose of diagnosis and treatment. Such clinics are organized and operated by DSCC and utilize DSCC approved providers.

~~Financial-Participation-Agreement-(FPA):--The-agreement--between--DSCC and--the--Legally--Responsible--Adult(s)--which-specifies-the-family's monetary-obligation-to-pay-for-a-specified-portion-of-approved--direct medical--care--and/or--related--care--for-their-Recipient-Child,-which agreement-must-be-signed--prior--to--receiving--DSCC--benefits.---This amount--is--determined--according-to-the-Payment-Scale,-Appendix-B,-of this-Part-and-through-the-rules-established-in-this-Part.~~

~~Full~~ Financial Assistance: When DSCC pays, to the extent provided for in this Part, for all of a Recipient Child's DSCC authorized services not covered by the family's insurance or other third party payment resource. To determine eligibility see Section 1200.50 of this Part.

Financial Eligibility Scale: The schedule, adjusted for family size, used to determine financial eligibility.

Health Care Facility: Any Diagnostic and Treatment Facility within the contemplation of Section 1200.110(a) and any Outpatient Therapy Center within the contemplation of Section 1200.110(b) of this Part.

Health Care Professional: Any individual or corporation licensed or

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certified to provide health care services to a patient and practicing in a commonly recognized field of knowledge. The term shall include but shall not be limited to Physicians and Other Health Care Professionals as defined in Section 1200.100(a)(3).

Health Care Provider: Any Health Care Professional, Health Care Facility, or any Medical Equipment Supplier within the meaning of Section 1200.110(c) of this Part.

Income: Money received by an Applicant, Recipient Child, or his family which can be applied directly to meet basic needs for food, shelter, and medical expenses. Total income is defined at Section 1200.50(d)(2) of this Part. ~~Adjusted family income, i.e., net income, is figured by reference to Section 1200.50(d)(3) of this Part.~~

~~Income Scale: The schedule, adjusted for family size, used to determine financial eligibility.~~

Individual Service Plan (ISP): A document describing a Recipient Child's ~~child's~~ health and developmental status which serves as a basis for a plan of specific services and monitoring. The Plan is developed by the DSCC professional staff based upon the demonstrated health care needs of the Recipient Child ~~child~~ and the availability of services to meet those needs.

Legally Responsible Adult (LRA): A person who is legally required to provide for and entitled to make decisions about the DSCC service Applicant or Recipient Child. This person may be a parent (biological or adoptive) or legally appointed guardian. The LRA may also be the DSCC service Applicant or Recipient Child under the following circumstances:

If he/she has been emancipated in accordance with the provisions of the Emancipation of Mature Minors Act [750 ILCS 30] provided that the order of emancipation contemplates that the Applicant or Recipient Child is empowered to act in the manner required.

If he/she is authorized to consent to health care services in accordance with the Consent by Minors to Medical Procedures Act [410 ILCS 210].

If he/she is over the age of 18 years and has the legal capacity to act in the manner required, provided that, if any Applicant or Recipient Child is partially or wholly financially dependent on his/her parents or guardian, the parents or guardian shall be considered the LRA for purposes of making financial determinations hereunder. Medical consent is required from only one Legally Responsible Adult in the event that the Recipient

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Child or Applicant is not legally entitled to consent.

Medically Eligible Condition: That medical condition which renders the Applicant or Recipient Child ~~child~~ eligible for DSCC services. Specific conditions are enumerated at Section 1200.40 of this Part.

Parent: The biological or adoptive parent of the Applicant or Recipient Child receiving or seeking DSCC services.

~~Partial Financial Assistance: The amount that DSCC pays over and above the amount for which the family is obligated and over and above the amount which is covered by insurance.~~

~~Payment Scale: The schedule indicating an amount the family is expected to contribute toward the medically related costs of care for their Recipient Child during a 12 month period. This contribution is required from all families who have not been categorized as fully financially eligible.~~

Principal Medical Condition: The medical condition which exerts the most pervasive impact on the Applicant or Recipient Child's ~~child's~~ function, state of health or well-being or anatomic structure. Usually the condition which requires the most immediate and extensive medical attention at the time.

Programmatic Assistance for Care Coordination Activities: A process undertaken by professional staff of the Division on behalf of an Applicant or Recipient Child ~~children~~ with a Medically Eligible Condition ~~Conditions~~, which may include procedures for evaluation of the Applicant or Recipient Child's ~~child's~~ condition, development of an Individual Service Plan, recommendations of health care providers and facilities, assistance in arrangement of such care, and subsequent monitoring of the status of the Applicant or Recipient Child ~~child~~ and family. The level of Programmatic Assistance for Care Coordination Activities ~~programmatic assistance~~ required will be based on the medical needs of the Applicant or Recipient Child ~~child~~ as determined by usual and customary medical standards.

Recipient Child: A child who is currently receiving DSCC services ~~or whose Health Care Providers are being paid, in whole or part, by DSCC~~.

Referral: A procedure by which any person can introduce a child to the DSCC program. See Section 1200.80(c)(5)(A) and (B) of this Part.

Reimbursement Agreement: Written agreement signed by the LRA(s) and/or attorney(s) for the LRA or Applicant/Recipient Child ~~eligible child~~ specifying that any money recovered as judgment or settlement of a lawsuit or from an insurance or personal settlement arising from a

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claim relating to the child's medical condition for which DSCC is providing care or reimbursing Health Care Providers will be used to reimburse DSCC for its payment of the Applicant/Recipient Child's ~~child's~~ medical and related care costs, which funds will then be replaced into the DSCC program and used to further benefit Applicant/Recipient Children ~~eligible children~~.

Resident of Illinois:

Any person living in the State of Illinois with the intent to remain in the State indefinitely. The term "living in the State of Illinois" shall be limited to all persons whose primary domicile is located within the State. Intent to remain indefinitely is established through a showing that a person has significant contacts with the State of Illinois as evidenced by indicia thereof, such as maintaining a bank account in the State, registering to vote in the State, paying Illinois income taxes, obtaining permanent employment within the State, owning real estate within the State, and possessing an Illinois driver's license or similar permits; or

Any person who is present in the State of Illinois for the purpose of performing migrant agricultural labor and who evidenced a pattern of regularly returning to the State to perform such work or who expresses an intention to establish a pattern of regularly returning to the State to perform such work. Migrant agricultural labor is defined as agricultural work of a seasonal or temporary nature which requires that the worker be away from his/her permanent place of residence to perform said work more than overnight. A pattern of regularly returning to the State to perform such work shall be considered to have been established if a person is present in the State of Illinois to perform migrant agricultural work for two successive growing seasons; or

Any person who is an active duty member of the U.S. military and on official military assignment within the State of Illinois, whether or not they maintain residence in another state, or any person who is an active duty member of the U.S. military on official military assignment in another state or country who pays Illinois income taxes.

Retroactive Authorization: Authorizations which occur, under specified circumstances, after medical service has been provided to a Recipient Child. See Section 1200.80(c)(5) for enumeration of the circumstances in which this will be considered.

Retroactive Financial Eligibility: Financial eligibility which

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reaches back no more than 30 days prior to the date of completed application. See Section 1200.50(c)~~(6)~~~~(7)~~(A) and (B).

(Source: Amended at 23 Ill. Reg. 14597, effective DEC 15 1999)

Section 1200.30 Eligibility: General

a) Program Purpose
The purpose of the Illinois Division of Specialized Care for Children is to provide Programmatic Assistance for Care Coordination Activities with ~~diagnostic and treatment services for~~ children who are disabled as a result of congenital and/or acquired states or have a condition which may lead to disability. The objective is to provide a program of comprehensive evaluation, medical care and related habilitative services appropriate to their various needs and to financially support such care to the extent that their Legally Responsible Adults (LRAs) require such financial assistance as determined by the Financial Eligibility Criteria (Section 1200.50 of this Part). Recipient Children who are eligible only for Programmatic Assistance for Care Coordination Service ~~only~~ will be served without regard to a financial means test. Due to financial limitations, DSCC will only provide assistance to children with certain categories of disabling conditions as defined in Section 1200.40 of this Part.

b) Eligibility Criteria for Diagnostic Services

~~1)~~ Initial Diagnostic Services ~~diagnostic services~~ are provided without regard to ability to pay to the extent medically necessary applying usual and customary medical standards to determine whether the Applicant ~~child~~ has one of the conditions enumerated in Section 1200.40, Medically Eligible Conditions. Whenever eligibility or ineligibility is established based upon an interview with the Applicant ~~child~~ or the LRA, which occurs when a diagnosis has already been established, DSCC shall not be required to provide further initial medical Diagnostic Services ~~diagnostic services~~.

~~2) Children may be but need not be referred for said services by an individual or agency.~~

~~3) To make medically necessary diagnostic services accessible to families, DSCC will support needed transportation costs.~~

c) Eligibility Criteria for Other DSCC Services

1) Programmatic Assistance for Care Coordination Activities
To be eligible for Programmatic Assistance for Care Coordination Activities, an Applicant or Recipient Child ~~a child~~ must meet the following requirements:

A) Be under 21 years of age;

B) Be a Resident of Illinois;

C) Have, or be suspected of having, a Medically Eligible Condition.

2) Care Coordination ~~Treatment Services~~ and Financial Assistance

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~~Support~~
It is recognized that it is the duty and responsibility of the LRAs to pay for necessary health care services for their children. DSCC will assist the LRA with this responsibility by providing care coordination ~~treatment~~ services and financial assistance, provided the LRAs are Residents of Illinois, and provided the Applicant or Recipient Child ~~child~~:

A) Is ~~Be~~ under 21 ~~18~~ years of age with the exception ~~(except~~ that DSCC shall provide services beyond the Recipient Child's ~~child's~~ 21st ~~18th~~ birthday when necessary to complete a treatment plan developed before that time if cessation of treatment would cause an immediate threat to or damage to the Recipient Child's ~~child's~~ life or good health or would negate gains resulting from previous rehabilitative efforts. In no event may the ~~said~~ extension continue more than six months beyond the Recipient Child's ~~child's~~ 21st birthday~~)~~;

B) Is ~~Be~~ a Resident of Illinois;

C) Has ~~Have~~ a Medically Eligible Condition and in addition:

i) The LRAs are lawfully admitted to the United States on a visa or permit which contemplates that the LRA will be entitled to permanently remain in the United States or has been admitted under color of law; or

ii) The Applicant or Recipient Child ~~child afore described~~ is a United States citizen.

D)~~3)~~ Whenever ~~In addition, whenever~~ payment for treatment services or financial assistance ~~support~~ is desired, the LRA must:

i)~~A)~~ Meet the financial eligibility criteria set forth at Section 1200.50 of this Part;

ii)~~B)~~ Make maximum use of third party payments ~~insurance benefits~~, if any, as well as any other form of payment (such as trust funds, gifts, or fund raising drives) available for the Applicant or Recipient Child ~~child and/or make the payments toward the support of the child's treatment as are determined by his or her FPA~~;

iii)~~C)~~ Sign a Reimbursement Agreement, if the injuries for which treatment is sought were caused by any alleged negligent act (including products liability) whenever litigation is pending or contemplated.

3)~~4)~~ Further, any attorney retained to represent the Recipient Child ~~child~~ on any claim relating to the Recipient Child's ~~child's~~ medical condition for which DSCC will provide care must separately sign the Reimbursement Agreement. Failure to comply with this requirement will not, however, delay or hinder the application process.

4)~~5)~~ When the LRAs are no longer Residents ~~not residents~~ of Illinois, care coordination ~~treatment services~~ and financial assistance ~~support~~ can be provided for as long as the following conditions are met not to exceed 12 months from the change of residency status ~~a limited period of time when all the following conditions are met~~:

A) The Recipient Child ~~child~~ remains a Resident ~~resident~~ of Illinois;

B) The Recipient Child's ~~child's~~ LRAs were residents of Illinois at the time the Recipient Child ~~child~~ was registered with DSCC;

C) An active DSCC supported treatment plan for the Recipient Child's ~~child's~~ eligible condition was in progress at the time the LRAs lost residency status ~~left Illinois~~;

D) Discontinuation of treatment would result in probable harm to the Recipient Child ~~child~~ or an adverse outcome of treatment; and

E) Legal action is in progress that will establish legal guardianship of the Recipient Child ~~child~~ with a person or agency located in Illinois.

d) Application Process: Initial and Continuing Eligibility

1) No person participating in or wishing to participate in the Division's programs shall be denied benefits of the program or shall be discriminated against on the basis of sex, religion, race, color, national origin or handicap not related to program eligibility.

2) General responsibilities of Applicants, Recipient Children, and LRAs:

A) Applicants/Recipients and LRAs requesting assistance shall furnish requested factual information regarding eligibility and shall keep DSCC informed of any changes in financial status (defined as any change in financial circumstances which would affect financial eligibility for DSCC benefits as set forth in Section 1200.50 including, but not limited to changes in family size, and income ~~or expenses~~).

B) The application process requires consent by the LRA~~(s)~~ to release or to verify medical data and financial information provided as a part of the application process.

3) An LRA shall complete and sign a written application on behalf of the Applicant on forms specified by DSCC. The Applicant shall comply with ~~DSCC shall inform the Applicant of~~ all relevant time deadlines with respect to filing of an application and appealing any adverse decision. An LRA may choose a person to assist in completing the application. A representative of a public agency must ~~may~~ complete and sign the application for an Applicant ~~a child~~ in that agency's custody. A representative of a private agency may complete and sign the application for an Applicant ~~a child~~ if he/she is the authorized guardian for the Applicant ~~child~~.

4) A completed application must be submitted to DSCC within the

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following time periods:

A) In all cases, a completed application for initial financial eligibility must be received by DSCC within 30 days from the date of services for which assistance is desired. Applications not received within the 30 day period shall be processed for reimbursement of treatment services provided no more than 30 days prior to the actual date of receipt. This time period shall be adjusted by DSCC for good cause if DSCC is notified of the circumstances within the 30 day time period (for purposes of this clause, "good cause" shall include, but shall not be limited to, a family emergency, demonstrated delays caused by the U.S. Postal Service, and demonstrated delays caused by the Internal Revenue Service in providing a copy of an income tax return).

B) Applications for continuing financial eligibility must be received by DSCC within the current period of eligibility. If an application is received after said eligibility time period, continuing eligibility shall recommence no more than 30 days prior to the date the application is actually received by DSCC.

5) If financial assistance ~~support~~ is desired, the LRA shall complete and sign a financial application on behalf of the Applicant on forms specified by DSCC, which shall be submitted within the time periods specified in Section 1200.30(d)(4).

A) Such application ~~statement~~ shall include a copy of the LRA's most recent filed federal income tax return. If an LRA is not required to file with the Internal Revenue Service, verification of income must be submitted.

B) DSCC shall accept other supporting documents from the LRA to verify level of income if DSCC determines that the documents provided prove the information sought and if the LRA has demonstrated diligence in attempting to obtain federal tax returns or pay stubs but has been unsuccessful in doing so.

C) DSCC shall accept supporting documentation from the LRA that reflects financial eligibility for services being provided by or reimbursed by the Illinois Department of Public Aid (IDPA) or any other State agency using criteria the same as or more stringent than DSCC.

6) If financial assistance ~~support~~ is not desired, no financial application is required. Applicants with a Medically Eligible Condition who either do not desire or do not qualify for DSCC financial assistance ~~support~~ shall be eligible for Programmatic Assistance for Care Coordination Activities.

7) Determination of eligibility is performed at the regional offices. (See 2 Ill. Adm. Code 5155.Appendix A.)

A) The DSCC staff shall verify the information provided on behalf of the Applicant. This may include discussion, including an interview with the LRA, if the application is not complete. The interview shall be conducted at a place and time convenient to all parties.

B) If supplemental information required by DSCC to determine eligibility is not provided within 30 days after the LRA receives notice of a requirement that the information is needed to complete this application, DSCC shall then advise the LRA that the application will be invalidated and not given further consideration unless the LRA was unable ~~precluded~~, due to causes beyond his/her control, to provide ~~from providing~~ the information required.

C) A written decision regarding eligibility shall be sent to the LRA and any referring Health Care Provider or Professional ~~medical care provider~~ or referring agency within 30 days after receipt of the completed application unless the emergent nature of the Applicant's ~~child's~~ condition requires a decision in a more timely fashion.

(Source: Amended at 23 Ill. Reg. 14597, effective DEC 15 1999)

Section 1200.40 Medical Eligibility

a) General ~~Eligible Medical Conditions~~

1) Within the resources available, the Division of Specialized Care for Children has determined that it can best serve children who: have disabling impairments that are expected to be chronic; involve multiple physical defects/ disabilities/handicaps; are amenable to treatment as determined by the treating physician; have a need for long-term highly specialized medical care including, as necessary, related habilitative services; and in the judgement of the treating physician have life expectancy sufficient to realize benefit from the treatment.

2) Currently, DSCC serves children whose disabling impairments are enumerated in the list which follows. These conditions were determined to be eligible ~~as covered~~ by the Director, in consultation with and upon advice of the Advisory Board.

b) Medically Eligible Conditions

1) ORTHOPEDIC IMPAIRMENTS which are defined as those affecting bone, joint or muscle are eligible. Such impairments may be of congenital origin, or may be manifestations of an active chronic disease, or may represent a persisting result of previous infection, trauma, toxicity, disease or malignancy, which are determined to be chronic orthopedic impairments amenable to treatment requiring long-term management involving specialist care and required related habilitative or rehabilitative services.

2) NERVOUS SYSTEM IMPAIRMENTS which are defined as those affecting the brain, spinal cord or peripheral nerves, and present as

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persistent or recurring loss of consciousness, coordination, strength or sensation, but not cognitive or emotional disability, are eligible. Such impairments may be of congenital origin, or may be manifestations of an active chronic disease, or may represent a persisting result of previous infection, trauma, toxicity, disease or malignancy, which are determined to be chronic neurologic impairments responsive to medical treatment requiring long-term management involving specialist care and required related habilitative services. Children in a chronic vegetative state would be eligible upon medically determined emergence of recovery and sufficient health stability for a program of active habilitation to be instituted (for purposes of this clause, a chronic vegetative state is defined as a condition in which a child displays no evidence of progressive positive developmental or neurological improvement, as determined by usual and customary medical standards).

3) CARDIOVASCULAR IMPAIRMENTS which are defined as primarily affecting the heart and/or the larger blood vessels are eligible. Such impairments may be of congenital or acquired origin, the latter representing a persisting result of previous infection, trauma, toxicity or disease or malignancy, and which are determined to be a chronic cardiovascular impairment responsive to treatment requiring multispecialist intervention and a program of extended supervision and/or long-term active management, specialized medical care and such related habilitation services as may be necessary. Children with a disease or past infection known to primarily affect the heart and/or larger blood vessels which predispose to chronic heart and/or larger blood vessels impairment and which requires specialist management to minimize or preclude such impairment would be eligible.

4) EXTERNAL BODY IMPAIRMENTS, including the oral and nasal structures with their extension into the mouth, pharynx, larynx, major bronchi and esophageal structures, defined as significant defects affecting the skin and/or its underlying structures and defects of the mucosa and/or its underlying structures of the above internal parts which may affect breathing, speech and eating. Such impairments must be determined to be beyond the normal range of acceptable external appearances or adequate function, as determined by a medical specialist, responsive to specialist(s) intervention and a program of long-term management with related habilitation services or subject to correction which would preclude chronic physical or functional impairment, and may be of congenital origin, or may be manifestations of an active chronic disease, or may represent a persisting result of previous infection, disease, trauma, toxicity or malignancy. External body defects to be considered as beyond the normal range of accepted appearance are those defects considered to be major in the customary characterization of congenital defects or, if

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acquired, to be defects which fall outside of acceptable appearance as defined by the Division in consultation with its advisers. Defects of dentition and occlusion associated with severe oro-craniofacial structural deformities or if causative to impairment of intelligible speech are included.

5) HEARING IMPAIRMENTS which are defined as a loss of hearing or deafness of at least 30 decibels in two frequencies or a 35 decibel loss in one speech frequency involving one or both ears, as determined by audiometric testing are eligible. Such hearing loss may be of congenital origin, or may be a manifestation of an active chronic disease, or may represent a persisting result of previous infection, trauma, toxicity, disease or malignancy and which are determined to be chronic hearing impairments responsive to treatment requiring otological intervention and a program of extended supervision and/or long-term active management. Children with middle ear infection and/or middle ear effusion persisting for longer than three months and who have received medical treatment are eligible for special medical and hearing assessment and evaluation of communicative skills. If a hearing impairment is defined, otologic treatment, monitoring of communicative skills and provision of hearing aids shall be provided if determined medically necessary in accordance with usual and customary standards. Children considered to be profoundly deaf and not amenable to otologic intervention and/or hearing aids, as determined through the application of usual and customary medical standards, shall be eligible for assistance to enhance the communication skills of the child (and family) if such assistance is not available from other agencies or sources.

6) SPEECH IMPAIRMENTS which are defined as an impairment of intelligibility arising from any structural defect of the organs responsible for vocalization or neurological defects specific to orderly speech development are eligible. Such speech impairments may be of congenital origin, or may be manifestations of an active chronic disease, or represent a persisting result of previous infection, trauma, disease or malignancy determined to be responsible for the chronic speech impairment which is responsive to medical treatment requiring long-term management involving specialist care and related habilitative services and equipment. Developmental language deficits are not eligible (for purposes of this clause, a developmental language deficit is defined as a condition, as determined by the application of usual and customary medical standards, that can be expected to correct itself with maturation or with such therapy as is generally available through the public school system).

7) CYSTIC FIBROSIS. Children with cystic fibrosis are eligible if they manifest symptoms amenable to specialized medical care and long-term management by a team of specialists organized for this purpose.

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8) HEMOPHILIA and similar chronic defects of coagulation or chronic hemorrhagic conditions are eligible. Eligibility for services shall be established in accordance with Rules under the Hemophilia Care Act [410 ILCS 420] (77 Ill. Adm. Code 705). Eligible persons shall receive such services as may be provided with those rules. DSCC shall provide children care coordination ~~case---management~~ and financial assistance ~~support~~ of hospitalization, outpatient care and such additional services as may be required for specialized medical and related habilitative services, including home management, except that a Recipient Child not eligible for services under the Hemophilia Care Act as provided above shall receive required services through the Division.

9) INBORN ERRORS OF METABOLISM which are defined as those newborn conditions leading to severe neurological, mental and physical deterioration for which there are acceptable treatments which, when promptly instituted, would preclude or significantly minimize the adverse effects of the metabolic defect are eligible.

10) EYE IMPAIRMENTS which are defined as those affecting the eye and/or eye muscles, but excluding isolated refractive errors, are eligible. Such impairments must lead to or cause a significant risk of loss of vision and be chronic impairments which are determined to be responsive to treatment requiring medical or surgical ophthalmologic intervention and a program of extended supervision and/or long-term active management. In determining whether an eye impairment may be responsive to a program of extended supervision and/or long-term active management, the following factors must be present: that without treatment, the condition would be expected to last at least six months; and that extended and long-term active management shall require medical supervision of at least six months. Such impairments may be of congenital origin, or may be a manifestation of an active chronic disease, or may represent a persisting result of previous infection, trauma, toxicity or disease. When required as part of an approved management program not involving services or equipment prohibited by Section 1200.80(a) and approved pursuant to Section ~~Sections~~ 1200.80(b) and (c), and prescribed by the managing ophthalmologist, treatment of associated refractive errors is eligible. Children considered to be blind and not amenable to ophthalmologic intervention, as determined through the application of usual and customary medical standards, are not eligible under this category.

11) URINARY SYSTEM IMPAIRMENTS which are defined as those chronic organic impairments affecting the kidney, ureter, bladder, and/or urethra, but excluding urinary tract infections, and isolated ureteral urinary reflux unless associated with a persistent structural defect, are eligible. Such impairments may be of

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congenital origin, or may be manifestations of an active chronic disease, or may represent a persisting result of previous infection, trauma, toxicity, disease or malignancy, which are determined to be chronic, amenable to treatment requiring long-term medical or surgical management involving specialist care and required related habilitative or rehabilitative services. Children requiring chronic renal dialysis and/or renal transplantation are not eligible under this category.

c) Health care services defined as "well child care," routine medical and dental treatment, medical care of acute childhood illnesses (defined as diseases which are not normally chronically disabling and which are not unusual in the course of a child's maturation) or trauma or short-term complications related thereto, are not provided by DSCC.

d) Health care services for children whose impairment is considered to be "acute" as an immediate associated consequence of infection, trauma, disease, toxicity or malignancy would be considered eligible after completion of medical treatment of such acute condition and determination of a resulting persisting disability.

e) Care Beyond Medical Eligible Conditions
Children with the chronic disabilities which are defined in this Section as Medically Eligible Conditions may have associated health impairments which, as isolated health impairments, would not be considered as medically eligible for DSCC services. However, in order to achieve successful treatment of the eligible condition, if medically recommended, the services required to treat such associated health impairments will be provided to Recipient Children, except those related to a malignancy or to a chronic vegetative state. Treatment of such associated health impairments must be necessary for successful treatment of the Medically Eligible Condition and will continue to be provided only so long as the Recipient Child has a Medically Eligible Condition which is under continuing and active medical treatment. Further, if at any time, one of these other than Medically Eligible Conditions becomes the Recipient Child's principal medical condition, these additional services will be discontinued.

(Source: Amended at 23 Ill. Reg. 14597, effective DEC 15 1999)

Section 1200.50 Financial Eligibility

a) The LRA has an obligation to meet the cost of medical care for his/her Recipient Child to the extent they are able. Financial ~~Full or partial financial~~ assistance, in the form described in Section 1200.90 of this Part, is provided to LRAs who are unable to meet such expenses from their own resources as established through a financial need determination performed pursuant to criteria established in subsections (c) and (d) of this Section.

b) Exceptions to Financial Need Determination

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1) DSCC provides Diagnostic Services ~~diagnostic--services~~ necessary to determine medical eligibility without regard to the economic status of an Applicant's LRAs.
2) Financial information is not required from LRAs when:
   A) medical eligibility is uncertain;
   B) no expenditure of DSCC funds is anticipated;
   C) the Applicant or Recipient Child ~~child~~ is a ward of the State agency which is financially responsible for the Applicant or Recipient Child's ~~child's~~ medical care;
   D) the Applicant or Recipient Child ~~child~~ has been determined eligible for services being provided by or reimbursed by a State agency using criteria the same as, or more stringent than, DSCC. However, if the ~~such~~ LRAs elect to provide financial information and complete the DSCC financial need process, they may do so and the period of eligibility established will be determined in accordance with subsection (c)(6)~~(7)~~ below.
3) Only Programmatic Assistance for Care Coordination Activities is requested.

c) Criteria for Financial Assistance
1) Financial eligibility is based upon the financial status of the LRA requesting financial assistance.
2) The Financial Eligibility ~~Income~~ Scale (Appendix A) represents 285% of the Federal Poverty Guidelines as developed by the Department of Health and Human Services as published in 64 FR 13428, effective March 18, 1999. No subsequent dates or editions are included. ~~and the Payment Scale (Appendix B) are used to determine financial eligibility. The Income Scale represents 65% of the gross median family income adjusted for family size as developed for the State of Illinois by the U.S. Department of Health and Human Services, Family Support Administration under the provisions of Section 2603(7) of Title XXVI of the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35). Although this scale is derived from gross income figures, for purposes of financial eligibility,~~ A a family is placed on the scale according to its Total ~~Adjusted~~ Family Income and family size.
3) Financial ~~Full financial~~ assistance is provided when the Total ~~Adjusted~~ Family Income considering family size is equal to or less than that which is allowable in accordance with the Financial Eligibility ~~Income~~ Scale. The LRA and attorney must submit a Reimbursement Agreement, if applicable, as provided in Section 1200.30(c)(2)(D)(iii)~~(3)(C)~~.
4) ~~Partial financial assistance is provided when the Adjusted Family Income considering family size exceeds the amount allowable on the Income Scale, subject to the following conditions:~~
   ~~A) A determination that the annual family payment as established in the Payment Scale is less than the anticipated cost of services for the proposed period of eligibility;~~
   ~~B) Completion of a Financial Participation Agreement (FPA) by the LRA. An FPA will be required whenever the LRA of a Recipient Child is eligible for partial financial assistance. The FPA shall be signed and returned to DSCC within 30 days after its receipt by the LRA.~~
      ~~i) The FPA obligates an LRA to pay for DSCC approved care for the Recipient Child. The amount will be equal to the annual family payment described by the Payment Scale. DSCC will use this money to pay for the child's direct and related care.~~
      ~~ii) The FPA shall cover all Recipient Children in one family.~~
   ~~C) Submission of a Reimbursement Agreement by the LRAs and attorney(s), as provided in Section 1200.30(c)(3)(C), if applicable.~~
   ~~D) Adjustments to the annual family payment shall be made by DSCC if there is evidence in the application or through additional information that indicates the LRA has the ability to assume cost sharing beyond the amount previously indicated based upon application of the financial eligibility criteria in this Section 1200.50.~~
4)~~5)~~ The LRA shall be determined ineligible for financial assistance from DSCC when:
   A) It is determined that the Total ~~Adjusted~~ Family Income is in excess of ~~$10,499 of~~ that which is allowable in accordance with Appendix A, the Financial Eligibility ~~Income~~ Scale.
   B) An LRA has failed within the time periods established in Section 1200.30(d) to provide sufficient information to determine eligibility. In such instances, eligibility shall commence up to 30 days prior to the date of receipt of a new application with information sufficient to establish eligibility.
   C) An LRA has failed within the time period established in Section 1200.30(d) to complete and sign the application (including the financial application), and the Reimbursement Agreement (Section 1200.30(c)(2)(D)(iii)~~(3)(C)~~), if applicable, ~~and an FPA, if applicable (Section 1200.50(c))~~. In such instances, eligibility shall commence up to 30 days prior to the date of receipt of a newly ~~new~~ signed application, and/or Reimbursement Agreement, ~~and/or FPA~~.
   D) In addition, the LRAs shall lose their financial assistance if:
      i) Medical insurance payments or other forms of payment available or paid directly to the LRA to meet the cost of care for the Recipient Child have not been applied to the cost of care arranged, authorized, and paid by DSCC for that child. In such instances, the LRA may

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reapply for assistance upon repayment to DSCC of an amount equal to the medical insurance payments made available but not applied toward the Recipient Child's ~~child's~~ cost of care.

~~ii) An LRA has not complied with the payment schedule established in the FPA with DSCC. In such instances, the LRA may reapply for assistance once the required payment has been made to DSCC.~~

ii)~~iii)~~ An LRA fails to notify DSCC within 30 days of any change in the Recipient Child's ~~child's~~ medical insurance which results in medical coverage for costs which are currently paid for by DSCC.

iii)~~iv)~~ An LRA fails to submit a Reimbursement Agreement in accordance with Section 1200.30(c)(2)(D)(iii)~~(3)(C)~~, if applicable.

iv)~~v)~~ It is determined that the LRA has in any way falsified documents used to determine eligibility.

5)~~6)~~ LRAs determined to be wholly or partially ineligible shall be advised of the right to appeal the determination in accordance with the procedures as set forth in Section 1200.60.

6)~~7)~~ Period of Financial Eligibility

A) Financial eligibility shall be established for a period of up to 24 months commencing no sooner than 30 days prior to the date a completed application is received by DSCC if applicants are able to provide current federal tax information. For purposes of this Section, current federal tax information shall be defined as the tax information for the calendar year prior to the year of application; or

B) Financial eligibility shall be established for a period of up to 12 months commencing no sooner than 30 days prior to the date a completed application is received by DSCC under the following circumstances:

i) Applicants/LRAs able to provide federal tax information not older than one year prior to the current federal tax information.

ii) Applicants/LRAs not required to file federal income tax forms as defined by the federal Internal Revenue Service. Income must be verified using two consecutive pay stubs that are within two months of application.

~~iii) Applicants determined to have a Financial Participation Agreement.~~

iii)~~iv)~~ Applicants/LRAs determined financially eligible on the basis of eligibility for services being provided by or reimbursed under the Hemophilia Care Act [410 ILCS 420].

C) When more than one child in a family is eligible for financial assistance, the period of eligibility for all

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eligible children will be for the same period.

D) Financial eligibility shall be redetermined subject to the date established at subsection (c)(6)~~(7)~~(A) and (B) above. No current family financial eligibility period will be reduced due to changes in the Financial Eligibility Scale effective December 15, 1999, except as noted in subsections (c)(4)(D) and (c)(6)(E)(i) and (iii). No redetermination of financial eligibility will be done for a minimum of one year for families with existing financial eligibility based on the prior Income Scale.

E) The period of financial eligibility may be decreased under the following circumstances:

i) The Recipient Child, at the time of financial evaluation, was a ward of an agency or court because adoption had not been finalized~~, and the adoption is finalized~~. DSCC eligibility shall terminate on the effective date of the finalization of the adoption.

ii) Supplemental information submitted pursuant to Section 1200.30(d)(2)(A) of this Part causes a change in financial eligibility.

iii) The Recipient Child loses DSCC General or Medical Eligibility. Eligibility for DSCC benefits shall terminate at the time that DSCC General or Medical Eligibility is determined to have been lost.

F) In the event that an LRA submits information, at any time, which, upon verification by DSCC, establishes that the LRA is eligible for financial assistance at a level in excess of that previously approved by DSCC, a new period of eligibility shall begin on the date the information is received by DSCC, provided that the LRA has met all prior financial obligations to DSCC ~~and signed a new FPA, if one is required pursuant to subsection (c)(4)(B)~~.

d) Financial Determination Calculations

1) Family Size

A) Family size shall be determined by the sum of the number of persons in each of the following categories when they share the same household. However, if a person falls into more than one category, that person shall be counted only once:

i) The Applicant or Recipient Child;

ii) The Applicant or Recipient Child's spouse;

iii) An LRA and his/her spouse;

iv) Other persons who, for Federal Income Tax purposes, are deemed dependents of the applying LRA.

2) The family's annual Total Income shall be the sum of all income of persons comprising the family unit, as determined above but excluding income of dependent children except income of the dependent Applicant or Recipient Child and his/her spouse. Total Income shall include all income as defined by the Internal

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Revenue Service for federal income tax reporting purposes.

~~3) The following are allowable expenses which the family may deduct from their annual Total Income in determining financial eligibility:~~

~~A) The larger of:~~

~~i) The federal income tax Standard Deduction Rate based on the LRA's federal income tax filing status used to determine financial eligibility; or~~

~~ii) The total itemized deductions as reported on Schedule A of the LRA's federal filed income tax return used to determine financial eligibility.~~

~~B) Child and dependent care costs in accordance with the guidelines established by the Internal Revenue Service for federal income tax reporting purposes.~~

(Source: Amended at 23 Ill. Reg. 14597, effective DEC 15 1999)

Section 1200.60 Appeal Process

a) Notice of Determination

1) Except as otherwise provided in this Part, the Division shall notify the Applicant's LRA in writing within 30 days after the receipt of the completed application of eligibility status ~~that the Division has determined that the Applicant is eligible or ineligible, and the amount, if any, of the LRA's required financial contribution to the cost of the Applicant's medical care~~. If the Applicant or LRA is determined to be ineligible, the Notice of Determination shall state the reasons for the determination.

2) In the event that DSCC has requested additional information in order to determine eligibility, or has requested the LRA to sign a Reimbursement Agreement ~~or an FPA~~ and the request has not been complied with within the time period set forth in Section 1200.50, DSCC shall provide a Notice of Determination to ~~notify~~ the LRAs that the application shall be considered inactive and provide an explanation ~~the reasons therefor~~.

3) The Division shall notify a Recipient Child's LRA ~~in writing~~ of any action which the Division intends to take which adversely affects eligibility. This written notification shall provide specific reasons for the action being taken. This written notification shall be sent to the Recipient Child's LRA at least 30 days prior to the effective date of the proposed action.

4) An explanation of the LRA's right to appeal shall be sent with each Notice of Determination provided pursuant to subsections (a)(1)-(3).

5) The Notice of Determination described at subsection (a)(3) and all further written notices which bear on it shall be sent by

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certified or registered mail to the LRA at his/her last known address. If the Applicant or Recipient Child has a designated representative, a copy of all written notices will also be sent to that designated representative.

b) Right to Reapply

~~1)~~ ~~If the Applicant or Recipient~~ An LRA of a child ~~Child's LRA~~ who has been determined to be ineligible, ~~they~~ may reapply at any time he or she believes ~~they believe~~ the child has ~~they have~~ become eligible.

~~2) If the Recipient Child's financial eligibility has been reduced or has been set at a level less than full financial assistance, the LRAs may submit additional financial information at any time their financial situation changes.~~

c) Right to Meeting and Appeal Conference

1) The ~~Applicant or Recipient~~ Child's LRA, or designated representative, has a right to a meeting with the DSCC staff person responsible for a decision reflected in any Notice of Determination issued pursuant to subsections (a)(1)-(3).

A) The request for such a meeting must be made in writing and must identify the decision which is being questioned.

B) The request must be made within 14 days after receipt of the Notice of Determination.

C) DSCC shall contact the LRA or designated representative ~~requester~~ within five days after receipt of the request in order to schedule a meeting date, time and place.

D) Within seven days after the meeting, DSCC shall notify the ~~Applicant or Recipient Child's~~ LRA of the result of the meeting. Such notification shall be in the manner set forth at subsection (a)(5) and shall state the reasons for the decision made.

2) The ~~Applicant or Recipient Child's~~ LRA, or designated representative, has a right to appeal the results of a meeting decision to the Director in a conference with the Director or his/her designee held for that purpose. The Director shall not take part in any original decision or any initial meeting held under subsection (c)(1).

A) The request for such an appeal conference must be made in writing and must identify the meeting decision which is being appealed.

B) The request must be made within 14 days after receipt of notification of result of the subsection (c)(1) meeting.

C) DSCC shall contact the requester within five days after receipt of the request in order to schedule a meeting date, time and place.

D) The Director or his/her designee shall consider the decision issued pursuant to subsection (c)(1)(D), any written material presented at the meeting provided for in subsection (c), any evidence presented at the conference, and all other information which the Director or his/her designee obtains

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through an independent investigation of the issues raised by the appeal.

E) Within seven days after the appeal conference, DSCC shall notify the ~~Applicant-or-Recipient-Child's~~ LRA of the result of the appeal conference. Such notification shall be in the manner set forth at subsection (a)(5) above and shall state the reasons for the decision made.

F) The decision rendered by the Director or his designee is final.

d) Procedural Rights at Meeting and Conference

The ~~Applicant-or-Recipient-Child's~~ LRA, or designated representative, has the following rights:

1) The right at any time to inspect and copy the contents of the Applicant or Recipient Child's case file and any other documents used by DSCC in making its determination or proposing its action; and

2) The right to appear on his or her ~~their~~ own behalf and/or to be ~~represented,~~ advised and/or accompanied by a relative, friend, lawyer or advocate; and

3) The right to present relevant information, witnesses and evidence in any form; and

4) The right to ask questions of the Division staff present.

e) DSCC may deny or dismiss a meeting or appeal conference if:

1) The ~~Applicant---or---Recipient---Child's~~ LRA, or designated representative, withdraws the request for the meeting or appeal conference in writing; or

2) The ~~Applicant---or---Recipient---Child's~~ LRA, or designated representative, fails without good cause (defined as any reason which a prudent person would deem to be an adequate and complete excuse for failure to act, such as emergencies and family deaths) to appear at the scheduled meeting or appeal conference.

f) Benefits While Awaiting Decision

1) LRAs ~~of-Applicants~~ who are denied initial financial assistance benefits may appeal the denial but shall not receive any financial benefits in behalf of the Applicant while awaiting the meeting or appeal conference.

~~2) LRAs-of-Applicants-who--are--granted--less--than--full--financial assistance--may--appeal-the-decision-but-the-LRA-in-behalf-of-the Applicant-shall-only-receive-such-partial-financial-assistance-as originally-determined-while-awaiting-the-outcome-of--the--meeting or-appeal-conference.~~

2)~~3)~~ An LRA who is notified of a termination ~~or--reduction-of financial-assistance-benefits~~ shall continue at his/her prior level of financial assistance while awaiting the meeting or appeal conference, provided that the LRA requests the meeting and appeal conference within the time limits designated in subsections (c)(1)(B) and (c)(2)(B).

g) Effective Dates of DSCC Decisions

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1) If the decision of a meeting or appeal conference is in favor of an initial application of an Applicant's ~~applicant's~~ LRA, the financial assistance benefits determined appropriate as a result of the appeal shall be effective from the date of the completed application.

2) If a Recipient Child's LRA does not appeal, a Notice of Determination of termination or reduction of DSCC benefits, the effective date thereof shall be as provided for in subsection (a)(3).

3) If a Recipient Child's LRA appeals a Notice of Determination of termination or reduction of DSCC benefits, no such termination or reduction shall be effective until ten days after all appeal rights have been waived or exhausted.

(Source: Amended at 23 Ill. Reg. 14597, effective DEC 15 1999)

Section 1200.70 Payment for Services

a) With respect to Medicaid, Medicare, any other medical insurance plan or policy or other third-party payers, unless prohibited by law, DSCC shall be deemed the payer of last resort. Nothing contained in these regulations shall authorize or require DSCC to provide payment for medical services, hospital services, supplies or appliances which would otherwise be paid by Medicaid, Medicare, any other medical insurance plan or policy or other third-party payers, including donated funds and such other funds available for medical care derived from settlement of injury claims.

b) Payments for services are subject to the availability of funds as determined by the Board of Trustees of the University of Illinois in its sole discretion.

1) If DSCC determines, based upon its own internal auditing and record keeping systems, at any time, that it does not have or will not have sufficient funds to provide payments for authorized services for additional Applicants, DSCC shall:

A) Cease accepting applications.

B) Post notices in conspicuous places in DSCC offices and clinics and in other places where such notices are likely to be seen by Applicants. The notices shall state that DSCC is no longer accepting applications because of insufficient funds, and shall state the probable date on which DSCC shall again accept applications. Notices will also be posted in a like manner when funding again becomes available.

C) DSCC employees shall inform all Applicants or Recipients ~~clinic--patients~~ and other persons that DSCC is no longer accepting applications because of insufficient funds, and shall inform such persons of the probable date on which the Division shall again accept applications.

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D) Cease authorizing additional health care services for Recipient Children whose LRAs are eligible for DSCC financial assistance.

2) If DSCC determines, based upon its own internal auditing and record keeping systems, at any time that it does not have or will not have sufficient funds to provide payments for authorized services for Applicants who have applied, but with respect to whom no determination of eligibility has been made, DSCC shall nevertheless finish processing those applications and determine the eligibility or ineligibility of each ~~such~~ Applicant and his/her LRA for use in the event that additional funds become available. In such event, the LRAs of eligible Applicants ~~applicants~~ shall be provided funding in the order received unless a child's life or good health is threatened in which event the child's application will be given priority.

3) DSCC shall make payments for authorized services in the order in which DSCC receives bills for such services.

4) If DSCC determines due to nonavailability of funds that it is unable to pay for an authorized service, it shall cancel the authorization any time up to the point at which services have been provided. For this purpose, the authorization shall contain the following statement: "This authorization is subject to all of the various rules and procedures set forth at 89 Ill. Adm. Code 1200." In the event any authorization is cancelled pursuant to this limitation, any charges incurred for services rendered after the date of cancellation shall not be the obligation of DSCC.

5) Except as otherwise specifically provided herein in the event that DSCC determines that it does not or will not have sufficient funds to provide payments for all Applicants, present and future, as well as to make payments in behalf of all Recipient Children, it shall first cease accepting applications in accordance with subsection (b)(1) above. If after taking such action, it is still determined that sufficient funds are not available, it shall take the actions set forth in subsection (b)(2) above. If after taking such action, it is still determined that sufficient funds are not available, it shall take the actions set forth in subsections (b)(3) and (4) above. In the event that the life or good health of a child is threatened if a procedure is not performed, DSCC shall give funding such procedure priority over other procedures not posing such threat if funds are available.

c) The Director shall establish maximum dollar amounts for payment of authorized services per fiscal year which shall be applied to each child. DSCC shall provide notice of the limit to all Recipients and Health Care Facilities who may be affected.

d) By accepting a DSCC authorization, the Health Care Provider agrees not to seek further payment from the patient or the patient's family for such authorized services beyond the amounts available from insurance,

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DSCC, Medicare, or Medicaid. In those cases where DSCC has notified the Provider that money is no longer available from DSCC, the Provider shall not be so restricted.

e) Insurance

1) Maximum insurance benefits must be used. The LRA is responsible for complying with insurance contract provisions required to maximize the level of insurance benefits.

2) Payment for authorized services for a Recipient Child ~~children~~ with insurance benefits shall not be made until insurance has paid or rejected the claim. Subject to all the limits on benefits as contained in this Part, DSCC will pay the cost of all required services above that reimbursed by insurance up to an established rate of payment. The Director shall approve payment for authorized services prior to settlement of the insurance claims if such is necessary to avoid undue suffering or to preserve life and good health, and if immediate payment will cause DSCC funds to be utilized in the most efficient and effective fashion, all as determined based on usual and customary medical standards.

3) The LRA ~~family~~ shall notify DSCC within 30 days of any change in the Recipient Child's ~~child's~~ medical insurance coverage which results in coverage of costs which are currently paid for by DSCC.

f) Submittal of Claims

1) In order to be eligible for payment consideration, a provider's/vendor's payment claim or bill, either initial or resubmittal following prior rejection, must be received by DSCC no later than 18 ~~nine~~ months from the date on which medical services, appliances or supplies are provided. This includes third party payment or denial information.

2) Claims which are not submitted and received by DSCC in compliance with the requirements of subsection (f)(1) will not be eligible for payment under DSCC's medical program. DSCC and the Applicant/Recipient Child or the Applicant/Recipient Child's ~~patient--or--patient's~~ family or guardian shall have no liability for any payment thereof.

(Source: Amended at 23 Ill. Reg. 14597, effective DEC 15 1999)

Section 1200.80 Availability of Services

a) Limitations

DSCC will not provide the following:

1) Organ transplants and related anti-rejection drugs.

2) Surgery or other treatment which is primarily for cosmetic purposes.

3) Research or experimental medical or professional services,

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hospital services, drugs, devices or equipment.

A) Research or experimental medical or professional services, hospital services, drugs, devices or equipment is defined to include services, drugs, devices or equipment which have not been recognized as having a proven rehabilitative value as determined by the professional standards of the applicable medical or health care specialty groups, including but not limited to:

i) equipment or appliances that do not have the approval of the Department of Health and Human Services, Food and Drug Administration or other appropriate federal agency (Investigational New Drugs and Devices and investigational services and treatments shall not be deemed to have received such approval);

ii) medical and/or other health related services, including drugs, food supplements, equipment or appliances not reported on, described, or discussed in published and recognized professional journals which have an advisory board passing on its publications;

iii) services, drugs, devices, equipment or appliances that have not been recognized by appropriate national professional organizations.

B) If a Health Care Provider wishes to utilize medical services, equipment or appliances which are identified as possibly research or experimental, the Provider must provide a written justification for doing so. Other pertinent information from knowledgeable professional sources may be obtained by the Health Care Provider. The DSCC Director shall determine whether services, equipment or appliances are, in fact, experimental or research based on the information supplied and the criteria at subsection ~~subsections~~ (a)(3)(A).

C) If DSCC authorizes a Health Care Provider to perform medical services or hospital service, or to purchase equipment or supplies later determined by DSCC as research or experimental, and if said Provider has failed to notify DSCC in advance of the possible experimental or research nature thereof, the Provider shall be obligated to refund any monies paid to it by DSCC or the LRA to perform such procedure or purchase such item.

b) Authorization: General

1) Except as otherwise specifically provided in subsection(c)(5) of this Section, all health care services, equipment or drugs to be purchased for an Applicant or Recipient Child ~~individuals~~ by DSCC, including diagnostic evaluation services (see subsection (d)), must be preauthorized, i.e., authorized by DSCC before their delivery. Such authorizations shall be to specific Health Care Providers and shall specify the services to be provided.

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2) Prior to any services, equipment or drugs being authorized by DSCC, a completed application must have been submitted to DSCC and eligibility established for the DSCC program (see Section 1200.50).

3) All authorizations are recorded as part of the Applicant/Recipient Child's ~~individual patient's~~ case record.

c) Authorization Procedure

1) An authorization for health care services, equipment or drugs must be requested from DSCC.

A) Authorizations ~~Any person may request that DSCC issue an authorization, but authorizations~~ will not be effective until DSCC receives notice from a Health Care Provider who ~~which~~ documents the need for and extent of the services, equipment or drugs to be provided to the Recipient Child. This notice may be either written or oral.

B) Services, drugs or equipment which are duplicative of those authorized or exceed authorized limits or are arranged without prior notification to and concurrence by DSCC shall not be authorized.

2) Authorizations will be issued for health care services, drugs or equipment only to a specific Health Care Provider and then only if Provider meets the criteria established in this Part, has evidenced a willingness to participate in the DSCC program, agrees to accept DSCC rates of payment, and agrees to abide by DSCC administrative procedures, as set forth in this Part.

A) DSCC maintains lists of qualifying, currently participating, Health Care Providers.

B) If the LRA or Recipient Child wishes to use a particular Health Care Provider, not currently participating in the DSCC program, that Provider will be added to the DSCC program upon confirmation that said Provider meets all the standards enumerated above.

3) All hospitalizations and all equipment purchases are subject to separate authorizations for each occasion of such service.

4) Recipient Children receiving DSCC services shall be preauthorized for a certain set number of professional outpatient service visits if such is determined medically necessary and the services will be furnished by a specific Health Care Professional or Facility. Upon medical recommendation for additional services, separate issuance of authorization~~(s)~~ will be required.

5) Exceptions to the pre-authorization requirement:

A) The initial medical referral of an Applicant ~~a child~~ to DSCC may be concurrent with the first visit to an approved Health Care Professional or Health Care Facility. Upon submission of a completed application by an LRA (within 30 days after ~~of the time~~ services were rendered), an authorization for the initial medical service will be issued if the Applicant ~~applicant~~ and LRA are determined eligible for the DSCC

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program and if the services provided are determined by DSCC to be medically necessary through the application of usual and customary medical criteria. (Note: payment for such services is subject to the time limits on retroactive benefits.)

B) Retroactive authorizations for services provided may be made unless:

i) the service was not provided during a period of eligibility except as provided in subsection (c)(5)(A);

ii) DSCC was not notified within 30 days after the service was provided;

iii) funds are not available to make the reimbursement, as determined by DSCC in accordance with Section 1200.70(b);

iv) the service was provided by a Health Care Facility or by a Health Care Professional not pre-approved by DSCC as meeting the Standards for Health Care Professionals ~~Medical--Personnel~~ (Section 1200.100) or Standards for Health Care Facilities (Section 1200.110); unless the service provided was an emergency, as determined by usual and customary medical standards, in which case the service will be retroactively authorized if the Facility or Professional providing the service is deemed by DSCC to meet the standards of this Part after the request for reimbursement is received;

v) the LRA has privately arranged for services with a Health Care Provider expecting private sources of reimbursement at the level of their usual and customary charges; unless the Provider subsequently agrees to accept the DSCC level of reimbursement.

d) The Diagnostic Evaluation Program (Diagnostic Services)

1) DSCC provides for early identification and diagnostic evaluation of children eligible for the DSCC treatment program through the qualified professional and support staff within DSCC, through a clinic system which is organized and operated in cooperation with Health Care Providers from various regions and through relationships with Health Care Providers in the private-voluntary sector throughout the State.

2) Services necessary to determine medical eligibility are provided without charge above available insurance or other forms of reimbursement regardless of family financial circumstances.

3) In specified areas outside of Chicago, DSCC arranges for field clinics with special or general scope to meet on a periodic basis. These clinics are staffed by Health Care Professionals participating in the DSCC program and are available for Diagnostic Services as well as certain treatment services.

4) In the City of Chicago, DSCC utilizes established outpatient

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clinics associated with DSCC approved Health Care Facilities to perform Diagnostic Services. This list is available to the general public and these facilities may be utilized at any time, since there are not specific "DSCC clinic times" at these Facilities.

5) All Applicants requiring Diagnostic Services must receive an Authorization from DSCC and must make a specific appointment for the evaluation, in accordance with the rules and procedures of that Health Care Facility.

6) If DSCC is able to determine, from an interview or from other existing information, that an Applicant is ineligible, Diagnostic Services shall not be performed.

7) All Diagnostic Services must be provided on an outpatient basis unless inpatient services for this purpose are specifically approved by the Director who shall approve such services when they are medically required to complete the diagnostic evaluation.

e) The Treatment Program

1) DSCC coordinates ~~provides--for~~ treatment and follow-up services through qualified professional and support staff within DSCC, through the field clinic system outside the City of Chicago, through DSCC approved Health Care Professionals and Facilities in Chicago, and through Health Care Providers throughout the State. The DSCC program is oriented in large part around a clinic or "specialized centers" model to encourage coordinated multi-specialist involvement with DSCC Recipient Children.

2) The services provided through the DSCC Treatment Program include, when determined medically necessary by a Recipient Child's treating physician{s}, the following:

A) Consultative services through a Health Care Professional or Facility.

B) Continuing outpatient supervision furnished by Health Care Professionals including office visits or by a Health Care Facility in a clinic, if such would more adequately meet the health care needs of the Recipient Child based on all applicable medical criteria than would a DSCC field clinic.

C) Hospitalization and inpatient medical and/or surgical treatment including special rehabilitation services. Provided, however, that procedures, tests, or services shall not be performed on an inpatient basis if, under medical professional standards such procedures, tests, or services are usually and customarily performed in outpatient facilities, except that such procedures, tests, or services shall be performed on an inpatient basis if determined to be medically indicated by the Director based on the recommendation of the Recipient Child's treating physician{s}.

D) Convalescent care to the extent available and required as an

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intermediate service to continued hospitalization.

E) Home based care intended to prevent continued hospitalization or similar-type medical placement, as determined desirable and feasible applying all medical standards. Such care is limited to training of parents and/or community health care providers; provision of recommended equipment and supplies; and, as necessary, periodic visiting nurse and/or related health personnel supervision. DSCC does not provide continuing care nursing, life support systems, or high technology equipment and related supplies but will help the LRA locate funding sources for these services, if they are determined to be medically necessary.

F) Assistive appliances, approved by DSCC, such as braces, prosthetic limbs, hearing aids, wheelchairs and related adaptive devices and special supplies determined medically necessary to accomplish rehabilitation goals. Excluded are fixed architectural modifications of the LRA's dwelling in which the Recipient Child ~~child~~ resides, and property related thereto. External ramps and/or mechanical lifts needed to provide the Recipient Child ~~child~~ access to the dwelling are not excluded.

G) Speech and hearing therapy, physical and occupational therapy.

H) Nutrition evaluation, guidance and provision of special dietary substances upon medical recommendation, excepting those dietary substances available through programs of public or private agencies established for such purposes.

I) Specialized dental care, such as orthodontia, prosthodontia, or oral surgery as required to further the treatment plan of a Recipient Child ~~children~~ with severe oro-craniofacial deformities (e.g., cleft lip-cleft palate) or severe congenital malformation of the teeth (e.g., anodontia or dentinogenesis imperfecta). Routine preventive or restorative dentistry is not provided except for Recipient Children ~~children~~ for whom this service is a specific recommendation to be integrated into an authorized orthodontic or prosthodontic plan.

J) Arrangements for home follow-up services by public health and/or related habilitative services personnel.

K) Specialized prescriptive drugs integral to the treatment program of a chronic disability.

L) Genetic evaluation and family counseling.

M) Psychological/psychiatric evaluation as medically recommended for diagnosis and treatment planning.

N) Referral to other public or private agencies as required to further support the special needs of the family and/or Recipient Child ~~child~~.

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f) Transportation Assistance

1) In order to make recommended services accessible to families, DSCC will support necessary transportation, lodging, meals, and parking costs. DSCC shall be obligated to provide the support only if no other sources are available for this purpose.

A) DSCC shall support necessary transportation by the most economically appropriate method and at a cost not exceeding limitations as set forth in the Reimbursement Schedule of the Travel Regulation Council at 80 Ill. Adm. Code 3000.Appendix A. DSCC will prescribe the form and procedure which families must follow in order to receive and verify expenses.

B) Support will be available for the following individuals: LRAs; the Applicant or Recipient Child ~~child~~; any additional caretaker whose presence is medically required to provide care for the Applicant or Recipient Child ~~child~~ during transportation.

C) When circumstances so dictate to meet the health care needs of the Applicant or Recipient Child ~~child~~, the Director shall authorize payments in excess of the amount stated above.

(Source: Amended at 23 Ill. Reg. 14597, effective DEC 15 1999)

Section 1200.100 Standards for Health Care Professionals

a) Qualifications/Requirements of Physicians and Other Health Care Professionals ~~Personnel Receiving DSCC Authorizations~~

1) Physician Health Care Professionals ~~Physicians~~: General Qualifications

In view of the specialized care required by children with chronic and often uncommon physical impairments served by DSCC, a participating Physician ~~physician~~ Health Care Professional shall be certified by one of the boards constituting the American Board of Medical Specialties; be licensed by the State of Illinois or the State in which the medical services are being provided; and be a member in good standing of the professional staff of the Health Care Facility approved by DSCC for the services to be provided. Physicians shall be those who have been approved by DSCC as meeting the above standards as evidenced by a submission thereof on forms provided by DSCC for that purpose. The Director will authorize the use of non-certified physicians when such is required to meet the needs of a specific child (for purposes of this clause a non-certified physician is defined as a physician who is qualified by training in his specialty as determined by the American Board of Medical Specialties but who has not yet met the minimum experience qualifications required to complete the

credentialing process through oral and written examinations). In such cases, the Director will establish limits on the services to be performed by such Professionals which reflect the extent of the training and experience of the physician.

2) Physician Health Care Professionals ~~Physicians~~: Special Qualifications
If medically necessary to meet the unique needs of individual children, the Director shall require Physician Health Care Professionals ~~physicians~~ involved in providing care to the ~~said~~ children to demonstrate that they have completed advanced training germane to the condition being treated. Such training may include sub-specialty certification by the American Boards of Medical Specialties or completion of a period of fellowship training in an approved program. The Director may also require, in such circumstance, that the physician evidence completion of continuing medical education in the specialized area needed and demonstrate significant recent experience in treating low incidence health impairments. Among the services provided by DSCC which require such qualifications are those involving medical and surgical management of children with cardiac defects; surgical management of curvature of the spine; habilitation of the upper extremity amputee; diagnosis and management of inborn errors of metabolism; hemophilia; cystic fibrosis; cleft lip/cleft palate; spina bifida; and genetic evaluation and counseling.

3) Other Health Care Professionals: Qualifications
Other Health Care Professionals include, but are not limited to, nurses, social workers, specialized dentists, physical therapists, occupational therapists, speech clinicians, audiologists, optometrists, podiatrists, psychologists, nutritionists, genetic counselors, orthotists, prosthetists, and related consultants shall need licensure, certification and credentialing requirements of the State and professional associations in the specialty areas in which they practice or provide services. Additionally, they shall present evidence of their training and experience in providing services to physically impaired children. Evidence of such training and experience shall be relevant to the prescriptive intervention ordered. The Director shall require additional qualifications when further expertise is required in accordance with the standards enumerated in subsection (a)~~Subsection~~(2) ~~immediately above. All such services shall be provided when medically necessary as determined by the DSCC Director considering the recommendations of the principal Health Care Professional.~~

4) Liability Insurance: Requirements
All physicians and all other Health Care Professionals shall maintain professional liability insurance in an amount not less than $1,000,000 per occurrence and an annual aggregate limit not less than $3,000,000. The physician and other health care professional further agrees to maintain continuous coverage in the amount required by DSCC for the length of time DSCC services are provided. DSCC retains the right to modify insurance requirements from time to time. All physicians and other health care professionals must provide to DSCC proof of the required professional liability coverage and shall update such proof upon renewal of coverage. Failure of DSCC to obtain such proof of coverage shall not be deemed a waiver of such coverage requirement ~~such amounts as may be determined by DSCC from time to time and must provide DSCC with assurance of such coverage~~.

5) Health Care Professionals: Qualification Exceptions ~~providing DSCC services prior to the effective date of this Part.~~
The above qualifications notwithstanding, physicians and other Health Care Providers who provided DSCC services prior to the effective date of this Part shall be entitled to continue in such status provided the Director determines that they have demonstrated the skill, knowledge, training, and experience necessary to continue to provide services to Applicant/Recipient Children. They shall be deemed to have demonstrated such skill, knowledge, training and experience if past medical outcomes were satisfactory, past medical diagnoses proved correct, and all past medical interventions were in accordance with usual and customary medical standards. (See exclusion in subsection (b)(6) ~~immediately~~ below.)

6) Exclusion from Participation
   A) Health Care Professionals formally and involuntarily excluded from participation in programs of federal and State ~~state~~ agencies, shall automatically be excluded from participation in the DSCC program.
   B) Health Care Professionals shall also be excluded for cause. Cause for exclusion by DSCC shall include, but shall not be limited to, failure to successfully complete the accreditation process by the appropriate certifying Board or organization within the maximum time frame for such certification; documented evidence of any kind of professional performance not consonant with the recognized standard of care; adverse action of a hospital medical board, a professional society or other organization; and lack of cooperation regarding billing practice or submission of reports.
   C) Any exclusion for cause shall be communicated to the Health Care Professional in writing. The Professional shall be entitled to appeal any such decision in accordance with the procedures set forth in subsection (b)~~,~~ ~~immediately below~~.

b) Upon receiving notice of DSCC intention to terminate participation in DSCC programs for cause, a Health Care Professional shall be entitled to a hearing thereon before the DSCC Director, if such is requested in

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writing within 30 ~~thirty~~ days after said notice is received by the Professional.

1) The hearing shall be informal in nature and the Professional shall have the right to present all relevant information, witnesses, and evidence in any form.

~~2) The sole question which shall be determined is whether the Professional is qualified to provide services to DSCC Recipients under the standards established by Section 1200.100 of this Part.~~

2)~~3)~~ Within ~~thirty (~~ 30~~)~~ days after the hearing, the Director shall issue a decision determining whether the Professional is so qualified and stating the reasons for the decision. The decision shall be based upon the facts presented at the hearing and any supplemental investigation performed by the Director.

3)~~4)~~ The decision of the Director shall be final.

(Source: Amended at 23 Ill. Reg. 14597, effective DEC 15 1999)

Section 1200.110 Standards for Health Care Facilities

a) Diagnostic and Treatment Facilities - General

1) All diagnostic and treatment facilities utilized by DSCC shall cause a Certificate of Insurance to be issued showing the following required coverage in no less than the minimum coverage limits. The insurance companies providing coverage must have a B+:V1 or better rating in the current edition of Best's Key Rating Guide. The diagnostic and treatment facility must agree to maintain such insurance for the term that services are rendered. Required coverage includes: ~~All such facilities utilized by DSCC must carry adequate malpractice insurance in such amounts as are determined by the Director from time to time and must give DSCC assurance of this coverage.~~

A) Workman's Compensation (Part A) (including Occupational Diseases) as required in statutory limits and Employers Liability (Part B) in the amount of $500,000 per occurrence;

B) Commercial general liability (including products, completed operation, bodily injury or physical damage) in the amount of $1,000,000 per occurrence;

C) Commercial auto liability (if applicable) for bodily injury or physical damage in the amount of $1,000,000 per occurrence;

D) Hospital liability/medical professional liability and errors and omissions liability in the amount of $1,000,000 per occurrence.

2) All hospital and extended care facilities utilized by DSCC for the provision of patient care services shall conform to the following standards:

A) Licensure by the appropriate State licensing body;

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B) Accreditation by the Joint Commission on Accreditation of Healthcare Organizations or the American Osteopathic Association when providing in-hospital care;

C) Recipient Children shall be provided inpatient care in hospital facilities with a physically definable pediatric unit to which only children are admitted. In making the selection and designation of such approved patient care facilities, DSCC shall give priority to those facilities which demonstrate emphasis on quality children's medical services pursuant to standards enumerated in subsection (a)(2)(D). This provision will not apply where the Recipient Child is 16 years or older ~~in a particular service area in which only a single hospital is utilized to admit all Recipient Children, these standards shall be waived when determined by the DSCC Director to be medically indicated to meet the needs of the Recipient Child~~;

D) All patient care facilities, programs and specialized patient care centers shall meet national standards whenever possible, including those promulgated by the American Medical Association, the American Hospital Association, the American College of Surgeons, the American Academy of Pediatrics, the Joint Commission on the Accreditation of Healthcare Organizations, the Commission for the Accreditation of Rehabilitation Facilities, the Inter-Society Committee on Congenital Heart Disease, ~~and~~ the American Heart Association and the Association for Accreditation of Ambulatory Health Centers.

3) Priority shall be given to those facilities affiliated with a medical school. DSCC shall refer children to designated regional or statewide referral centers when medically indicated utilizing usual and customary medical standards.

4) The above standards shall be waived by the DSCC Director when necessary to meet the medical needs of the child utilizing usual and customary medical standards.

b) Outpatient therapy centers, defined as facilities, not directly associated with approved hospital facilities, which are organized to provide habilitative services such as physical, occupational, speech and hearing therapy (including applicable diagnoses), at the community level, will be available to patients under DSCC authorization provided that:

1) All outpatient therapy centers utilized by DSCC shall cause a Certificate of Insurance to be issued showing the following required coverage in no less than the minimum coverage limits. The insurance companies providing coverage must have a B+:V1 or better rating in the current edition of Best's Key Rating Guide. The outpatient therapy center must agree to maintain such insurance for the term that services are rendered. Required coverage includes: ~~Such facilities carry adequate malpractice~~

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~~insurance in such amounts as are determined by the Director from time to time and BSCC is given assurances of this coverage;~~

A) Workman's Compensation (Part A) (including Occupational Diseases) as required in statutory limits and Employers Liability (Part B) in the amount of $500,000 per occurrence;

B) Commercial general liability (including products, completed operation, bodily injury or physical damage) in the amount of $1,000,000 per occurrence;

C) Commercial auto liability (if applicable) for bodily injury or physical damage in the amount of $1,000,000 per occurrence;

D) Professional liability and errors and omissions liability in the amount of $1,000,000 per occurrence;

2) Such facilities and staff meet appropriate State certification whenever such standards exist;

3) Such facilities and staff meet accreditation standards of the Commission for Accreditation of Rehabilitation Facilities, where they exist;

4) Utilization of outpatient therapy centers or individual therapist Health Care Professionals must be prescribed by the Recipient Child's DSCC-authorized physician responsible for the overall management of the physical impairment requiring the habilitative service.

c) Medical Equipment Suppliers

1) All medical equipment suppliers utilized by DSCC shall cause a Certificate of Insurance to be issued showing the following required coverage in no less than the minimum coverage limits. The insurance companies providing coverage must have a B+:V1 or better rating in the current edition of Best's Key Rating Guide. The medical equipment supplier must agree to maintain such insurance for the term that services are rendered. Required coverage includes: ~~All medical equipment suppliers must carry adequate insurance in such amounts as are determined by the Director from time to time and must give BSCC assurance of this coverage.~~

A) Workman's Compensation (Part A) (including Occupational Diseases) as required in statutory limits and Employers Liability (Part B) in the amount of $500,000 per occurrence;

B) Commercial general liability (including products, completed operation, bodily injury or physical damage) in the amount of $1,000,000 per occurrence;

C) Commercial auto liability (if applicable) for bodily injury or physical damage in the amount of $1,000,000 per occurrence;

D) Professional liability and errors and omissions liability in the amount of $1,000,000 per occurrence.

2) A facility providing braces, appliances and/or prostheses must be currently approved under the Facility Certification Program

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administered by the American Board of Certification in Orthotics and Prosthetics, Incorporated, and have in their employ an orthotist and/or prosthetist who has successfully completed a training program recognized by the American Board of Orthotists and Prosthetists, Incorporated, and who is certified by the Board. Providers of specialized medical equipment shall be authorized or approved dealers for such equipment as defined by the manufacturer and shall meet the manufacturer's standards for servicing and repairing such equipment.

3) The above services must be requested by the Recipient Child's DSCC-authorized physician.

4) A provider of hearing instruments must be licensed by the Department of Public Health as a hearing instrument dispenser as provided in the Hearing Instrument Consumer Protection Act [225 ILCS 50].

d) Clinical Laboratories

1) All clinical laboratories utilized by DSCC shall cause a Certificate of Insurance to be issued showing the following required coverage in no less than the minimum coverage limits. The insurance companies providing coverage must have a B+:V1 or better rating in the current edition of Best's Key Rating Guide. The clinical laboratory must agree to maintain such insurance for the term that services are rendered. Required coverage includes: ~~All clinical laboratories must carry adequate insurance in such amounts as are determined by the Director from time to time and must give BSCC assurance of this coverage.~~

A) Workman's Compensation (Part A) (including Occupational Diseases) as required in statutory limits and Employers Liability (Part B) in the amount of $500,000 per occurrence;

B) Commercial general liability (including products, completed operation, bodily injury or physical damage) in the amount of $1,000,000 per occurrence;

C) Commercial auto liability (if applicable) for bodily injury or physical damage in the amount of $1,000,000 per occurrence;

D) Professional liability and errors and omissions liability in the amount of $1,000,000 per occurrence.

2) All such laboratories utilized by DSCC must meet the standards and be appropriately licensed by the state in which they operate. Laboratories in Illinois must have a current license maintained in accordance with the Clinical Laboratory and Blood Bank Act [210 ILCS 25] or be fully certified to perform tests of moderate or high complexity under the Clinical Laboratory Improvement Amendments of 1988 (CLIA).

e) Hospitals and other treatment facilities are responsible for informing DSCC of changes in professional staff providing services to any Recipient Child.

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(Source: Amended at 23 Ill. Reg. 14597, effective DEC 15 1999)

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Section 1200.APPENDIX A Financial Eligibility ~~Income~~ Scale

Family Size	Financial Eligibility Maximum ~~Income Allowance~~*
1	$23,484~~10,200~~
2	31,521~~23,000~~
3	39,558~~29,400~~
4	47,595~~35,000~~
5	55,632~~40,600~~
6	63,669~~46,200~~
7	71,706~~47,300~~
8	79,743~~40,300~~
~~9~~	~~49,400~~
~~10~~	~~50,400~~
~~11~~	~~51,500~~
~~12~~	~~52,500~~

This scale is based on 285% of the Federal Poverty Guidelines as developed by the Department of Health and Human Services as published in 64 FR 13428, effective March 18, 1999. No subsequent dates or editions are included.

*For family units with more than 8 members, add $8,037 for each additional member. (The same increment applies to smaller family units also, as can be seen in the figures above.)

~~This table is based upon 65% of the gross median family income adjusted for family size as developed for the State of Illinois by the U.S. Department of Health and Human Services, using the Federal Register's updated table for gross median family income (62 Fed. Reg. 1265 (1997)). In order to find 65% of State median income for households with greater than 12 members, perform the following calculation:~~

~~1) Begin with 1.50;~~
~~2) Add 0.03 point for each additional family member (above 12 members);~~
~~3) Multiply figure obtained at step (2) by $35,000 (i.e., the 4 person household amount);~~
~~4) Round the figure obtained at step (3) to the nearest $100.~~

~~*Maximum allowable Adjusted Family Income which results in full financial assistance.~~

(Source: Amended at 23 Ill. Reg. 14597, effective DEC 15 1999)

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Section 1200.APPENDIX B Payment Scale* (Repealed)

~~$-Amount-in-Excess-of Income-Scale~~			~~Annual-Payment~~
~~1~~	-	~~999~~	~~None~~
~~1,000~~	-	~~1,499~~	~~$ 20~~
~~1,500~~	-	~~1,999~~	~~45~~
~~2,000~~	-	~~2,499~~	~~80~~
~~2,500~~	-	~~2,999~~	~~125~~
~~3,000~~	-	~~3,499~~	~~180~~
~~3,500~~	-	~~3,999~~	~~245~~
~~4,000~~	-	~~4,499~~	~~320~~
~~4,500~~	-	~~4,999~~	~~405~~
~~5,000~~	-	~~5,499~~	~~500~~
~~5,500~~	-	~~5,999~~	~~605~~
~~6,000~~	-	~~6,499~~	~~720~~
~~6,500~~	-	~~6,999~~	~~845~~
~~7,000~~	-	~~7,499~~	~~980~~
~~7,500~~	-	~~7,999~~	~~1,125~~
~~8,000~~	-	~~8,499~~	~~1,280~~
~~8,500~~	-	~~8,999~~	~~1,445~~
~~9,000~~	-	~~9,499~~	~~1,620~~
~~9,500~~	-	~~9,999~~	~~1,805~~
~~10,000~~	-	~~10,499~~	~~2,000~~
~~10,500 and above~~			~~no DSEC financial payment~~

~~*Derived from U.S. Department of Health and Human Services publication: "Setting Fees Based on a Family's Ability to Pay: A Guide for Agency Decision Making" (An Administrative Publication for State MCH Agencies, "Measure of Ability to Pay," December 1982).~~

(Source: Repealed at 23 Ill. Reg. 14597, effective DEC 15 1999)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF EMERGENCY AMENDMENT

1) Heading of the Part: Duck, Goose and Coot Hunting

2) Code Citation: 17 Ill. Adm. Code 590

3) Section Numbers: 590.10 — Emergency Action: Amendment

4) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.1, 2.2, 2.18, 2.19, 2.20, 2.23, 2.33, 3.5, 3.6, 3.7, 3.8, and 3.10 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.1, 2.2, 2.18, 2.19, 2.20, 2.23, 2.33, 3.5, 3.6, 3.7, 3.8, and 3.10], and Migratory Bird Hunting (50 CFR 20, effective September 26, 1990).

5) Effective Date of Emergency Amendment: December 13, 1999

6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: This emergency amendment will remain in effect for the 150-day period.

7) Date filed with the Index Department: December 6, 1999

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the Department of Natural Resource's principal office and is available for public inspection.

9) Reason for Emergency: Research and inventory data indicate the need for such change, and on November 24, 1999 the U.S. Government authorized such conservation measures by H.R. 2454.

10) A Complete Description of the Subjects and Issues Involved: Snow, Blue and Ross' geese have exponentially expanded their populations, causing serious damage to the tundra areas where they and other migratory birds nest, while at the same time the white-fronted goose and brant populations are down. Closing goose seasons at the end of Canada Goose Season will allow additional take and relaxed regulations on taking snow geese.

11) Are there any proposed amendments to this Part pending? No

12) Statement of Statewide Policy Objectives: These rules do not create or expand a state mandate.

13) Information and questions regarding this amendment shall be directed to:

Jack Price
Department of Natural Resources
524 S. Second Street, Room 485
Springfield IL 62701-1787
217/782-1809

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The full text of the Emergency Amendment begins on the next page:

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TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER b: FISH AND WILDLIFE

PART 590
DUCK, GOOSE AND COOT HUNTING

Section
590.10 Statewide Regulations
EMERGENCY
590.15 Duck, Goose and Coot General Hunting Regulations on Department-Owned and -Managed sites Listed in Sections 590.40 and 590.50
590.20 Permit Controlled Department Sites Only - Duck, Goose and Coot Hunting
590.25 Illinois Youth Waterfowl Hunting Permit Requirements
590.26 Illinois Youth Duck Hunting Permit Requirements (Repealed)
590.30 Duck, Goose and Coot General Hunting Regulations on all Department-Owned and -Managed Sites (Repealed)
590.40 Check Station Department Sites Only - Duck, Goose and Coot Hunting
590.50 Non-Check Station Department Sites Only - Duck, Goose and Coot Hunting
590.60 Various Other Department Sites - Duck, Goose and Coot Hunting
590.70 Ohio River
590.80 Early and Late Goose (all species) Hunting Regulations on Department Sites
EXHIBIT A The Non-Toxic Shot Zones of Illinois (Repealed)

AUTHORITY: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.1, 2.2, 2.18, 2.19, 2.20, 2.23, 2.33, 3.5, 3.6, 3.7, 3.8, and 3.10 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.1, 2.2, 2.18, 2.19, 2.20, 2.23, 2.33, 3.5, 3.6, 3.7, 3.8, and 3.10], and Migratory Bird Hunting (50 CFR 20, effective September 26, 1990).

SOURCE: Adopted at 5 Ill. Reg. 8857, effective August 25, 1981; emergency amendment at 5 Ill. Reg. 11386, effective October 14, 1981, for a maximum of 150 days; codified at 5 Ill. Reg. 10638; Part repealed at 6 Ill. Reg. 9647, effective July 21, 1982; new Part adopted at 6 Ill. Reg. 11865, effective September 22, 1982; amended at 7 Ill. Reg. 13229, effective September 28, 1983; emergency amendment at 7 Ill. Reg. 13948, effective October 6, 1983, for a maximum of 150 days; emergency expired March 3, 1984; amended at 8 Ill. Reg. 18968, effective September 26, 1984; amended at 9 Ill. Reg. 14242, effective September 5, 1985; peremptory amendment at 9 Ill. Reg. 15062, effective September 25, 1985; emergency amendment at 9 Ill. Reg. 15928, effective October 8, 1985, for a maximum of 150 days; emergency expired March 5, 1986; amended at 10 Ill. Reg. 16588, effective September 22, 1986; emergency amendment at 10 Ill. Reg. 17773, effective September 26, 1986, for a maximum of 150 days; emergency expired February 23, 1987; amended at 11 Ill. Reg. 10560, effective May 21, 1987; emergency amendment at 11 Ill. Reg. 15242, effective August 28, 1987, for a maximum of 150 days; emergency expired January 25, 1988; amended at 12 Ill. Reg. 12200, effective July 15, 1988; emergency amendment at 12 Ill.

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Reg. 16233, effective September 23, 1988, for a maximum of 150 days; emergency expired February 20, 1989; emergency amendment at 12 Ill. Reg. 22244, effective December 7, 1988, for a maximum of 150 days; emergency expired May 6, 1989; amended at 13 Ill. Reg. 10525, effective June 20, 1989; amended at 13 Ill. Reg. 14925, effective September 7, 1989; emergency amendment at 13 Ill. Reg. 16579, effective October 4, 1989, for a maximum of 150 days; emergency expired March 3, 1989; amended at 13 Ill. Reg. 17354, effective October 27, 1989; amended at 14 Ill. Reg. 638, effective January 2, 1990; amended at 14 Ill. Reg. 13529, effective August 13, 1990; emergency amendment at 14 Ill. Reg. 17029, effective September 26, 1990, for a maximum of 150 days; emergency expired February 23, 1991; amended at 15 Ill. Reg. 1487, effective January 22, 1991; amended at 15 Ill. Reg. 13293, effective September 3, 1991; emergency amendment at 15 Ill. Reg. 16745, effective November 5, 1991, for a maximum of 150 days; emergency expired April 3, 1992; amended at 16 Ill. Reg. 570, effective December 31, 1991; amended at 16 Ill. Reg. 12491, effective July 28, 1992; emergency amendment at 16 Ill. Reg. 16672, effective October 15, 1992, for a maximum of 150 days; emergency expired March 9, 1993; emergency amendment at 16 Ill. Reg. 18851, effective November 17, 1992, for a maximum of 150 days; emergency expired April 11, 1993; emergency amendment at 17 Ill. Reg. 1658, effective January 20, 1993, for a maximum of 150 days; emergency expired June 14, 1993; amended at 17 Ill. Reg. 16443, effective September 27, 1993; emergency amendment at 17 Ill. Reg. 18867, effective October 14, 1993, for a maximum of 150 days; emergency expired March 13, 1994; amended at 18 Ill. Reg. 10023, effective June 21, 1994; emergency amendment at 18 Ill. Reg. 15161, effective September 27, 1994, for a maximum of 150 days; emergency expired February 23, 1995; amended at 19 Ill. Reg. 13209, effective September 11, 1995; amended at 20 Ill. Reg. 754, effective December 29, 1995; recodified by changing agency name from Department of Conservation to Department of Natural Resources at 20 Ill. Reg. 9389; amended at 20 Ill. Reg. 12417, effective August 30, 1996; amended at 21 Ill. Reg. 578, effective December 30, 1996; amended at 21 Ill. Reg. 11713, effective August 12, 1997; amended at 22 Ill. Reg. 2182, effective January 2, 1998; amended at 22 Ill. Reg. 15961, effective August 24, 1998; amended at 22 Ill. Reg. 21881, effective December 3, 1998; emergency amendment at 23 Ill. Reg. 3092, effective March 10, 1999, for a maximum of 150 days; emergency expired August 7, 1999; amended at 23 Ill. Reg. 11195, effective August 26, 1999; emergency amendment at 23 Ill. Reg. 14640, effective December 13, 1999, for a maximum of 150 days.

Section 590.10 Statewide Regulations
EMERGENCY

a) Pursuant to Section 2.18 of the Wildlife Code [520 ILCS 5/2.18], *it shall be unlawful to take, possess, transport, or use migratory waterfowl except during such period of time and in such manner and numbers as may be provided in the Federal "Migratory Bird Treaty Act" (16 USC 703-711), the "Migratory Bird Hunting Stamp Act" (16 USC 1718 et seq.),* and annual "Rules and Regulations for Migratory Bird Hunting" (50 CFR 20 and 21) (collectively referred to in this Part as

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federal regulations) (no incorporation in this Part includes later amendments or editions), or contrary to any State regulations made in the Wildlife Code.

b) The regulations in Section 2.33 of the Wildlife Code on illegal devices shall apply to this rule, unless federal regulations are more restrictive.

c) Duck, goose and coot regulations are in accordance with Federal Regulations (50 CFR 20) unless the regulations in this Part are more restrictive.

d) It shall be unlawful while attempting to take migratory waterfowl or coots to have in possession any shotgun shells not approved as non-toxic by federal regulations.

e) It shall be unlawful to possess any shotgun shell loaded with a shot size larger than bismuth BBB, tungsten-iron BB, tungsten-polymer BB, tungsten-matrix BB, or tin BBB (if authorized via Federal Register) when attempting to take waterfowl.

f) Emergency Closure
The Department of Natural Resources (Department or DNR) will close the Canada goose season giving 48 hours notice when quotas established by federal regulations are reached, when harvest in any area is excessive due to extreme weather conditions or when a serious outbreak of infectious disease occurs, such as avian cholera or duck virus enteritis.

g) Closed Areas
Closed areas, including waterfowl refuges and rest areas, may be designated at certain sites in accordance with 17 Ill. Adm. Code 510. Boundaries of these closed areas will be posted.

h) Commercial Migratory Waterfowl Hunting Area Permits
   1) The holder of a permit shall forward information on harvest and hunters to the Department, by phone or on forms furnished by the Department, at times required by the Department. The Department shall give the permit holder reasonable written notice of the dates reports are required. Failure to timely supply such reports will make the permit holder subject to revocation of his permit and suspension of the privilege to hold the permit for up to 5 years.
   2) On any property where the principal waterfowl harvest is wild geese, it is the permit holder's duty to ensure that not more than 5 persons occupy or attempt to take wild geese from any blind or pit at the same time during the Canada goose season.
   3) The Department may assign the maximum potential Canada goose harvest (number registered pits x 5 hunters x Canada goose bag limit) to the cumulative quota zone harvest for each day a club is late in reporting.

i) Waterfowl Hunting Zones:
   1) North Zone - That portion of the State north of a line running east from the Iowa border along Illinois Route 92 to U.S. Interstate 280, east along U.S. Interstate 280 to U.S. Interstate

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80, then east along U.S. Interstate 80 to the Indiana border.

2) Northern Illinois Quota Zone - DuPage, Kane, Lake, and McHenry counties, and those portions of LaSalle and Will counties north of I-80.

3) Central Zone - That portion of the State south of the northern zone boundary to the Modoc Ferry route on the Mississippi River and east along the Modoc Ferry Road to Modoc Road to St. Leo's Road to Illinois Route 3, then north to Illinois Route 159, then north to Illinois Route 161, then east to Illinois Route 4, then north to U.S. Interstate 70, then east along U.S. Interstate 70 to the Bond County line, north and east along the Bond County line to Fayette County, north and east along the Fayette County line to Effingham County, east and south along the Effingham County line to U.S. Interstate 70, then east along U.S. Interstate 70 to the Indiana border.

4) Central Illinois Quota Zone - Calhoun, Cass, Fulton, Jersey, Knox, Mason, Morgan, Peoria, Pike, Tazewell, and Woodford counties, as well as those portions of LaSalle, Grundy, and Will counties south of I-80.

5) South Zone - From the southern boundary of the Central Zone south to the remainder of the State.

6) Rend Lake Quota Zone - all lands and waters in Franklin and Jefferson Counties.

7) Northeastern Illinois Canada Goose Zone - All lands and waters in the counties of Cook, DuPage, Grundy, Kankakee, Kane, Kendall, Lake, McHenry and Will.

8) Southern Illinois Quota Zone - Alexander, Union, Williamson, and Jackson Counties.

j) No person during the open season shall take or attempt to take wild geese in the Rend Lake Canada Goose Quota Zone and Southern Illinois Quota Zone except between legal opening and the hour of 3:00 p.m. except during the last three days of the Canada goose season and during any goose seasons that occur after the Canada goose season, hunting hours shall close at sunset daily, and during any Canada Goose Season set in September, hunting hours shall close daily at sunset and, during special light goose seasons as indicated in subsection (n), hunting hours shall close at one-half hour after sunset daily.

k) On any property where the principal waterfowl harvest is wild geese in the Rend Lake Quota Zone and the Southern Illinois Quota Zone, no more than 5 persons shall occupy or attempt to take wild geese from any blind or pit at the same time during the Canada goose season.

l) The following apply in the Northern and Central Illinois Quota Zones:

1) It is unlawful to hunt Canada geese during seasons after September 15 without having in possession a current season's permit to hunt Canada geese, unless exempt from a State waterfowl stamp. Such permits are not transferrable and are not valid unless they contain the hunter's name, signature, date of birth, and the same State waterfowl stamp number that is on the State

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waterfowl stamp that is signed by the hunter or affixed to his/her license.

2) Immediately upon taking possession of a harvested Canada goose, hunters must mark with indelible ink, punch or slit the Permit to Hunt to indicate the date of kill (one date for each goose harvested) and zone where killed. Hunters who take 3 Canada geese in one day must mark with an "X" in indelible ink or punch or slit their permit on or above the line immediately above the dates where the other 2 geese that were taken were marked.

3) Hunters must report their kill on the same calendar day the geese are taken by calling 1-800-WETLAND (938-5263). Hunters must report the number of geese taken, date and zone where taken.

m) Registration in the U.S. Fish and Wildlife Service Migratory Bird Harvest Information Program (HIP) is required for those persons who are required to have a hunting license before taking or attempting to take ducks, geese or coots. Instructions for registering are provided with issuance of hunting license.

n) If 50 CFR 20 or 21 allows light goose seasons to be liberalized, snow geese, blue geese and Ross' geese may be taken in accordance with federal regulations regarding hunting hours, method of taking and bag limits through March 31.

o) All goose seasons shall close concurrently with Canada Goose Season.

(Source: Amended by emergency rulemaking at 23 Ill. Reg. 14640, effective December 13, 1999, for a maximum of 150 days)

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC HEARING ON PROPOSED RULES

1) Heading of the Part: Income Tax

2) Code Citation: 86 Ill. Adm. Code 100

3) Register Citation to Notice of Proposed Rules: Rules have not yet been proposed. Through the public hearing process, the Department is seeking public comment prior to the initiation of the rulemaking process.

4) Date, Time and Location of Public Hearing:

January 31, 2000
9:00 A.M. to Noon
James R. Thompson Center
Room 2-025
Chicago, Illinois

5) Other Pertinent Information: This public hearing is being scheduled to elicit public input. The Department plans on drafting in the near future a rulemaking setting forth the application of Section 304(d) of the Illinois Income Tax Act (IITA; 35 ILCS 5/304(d)) with regard to business income derived from furnishing transportation services. Section 304(d) of the IITA provides that business income derived from furnishing transportation services shall be apportioned to Illinois by multiplying such income by the ratio of the revenue miles of the person in Illinois over the revenue miles of the person everywhere. A revenue mile is defined as the transportation of 1 passenger or 1 net ton of freight the distance of 1 mile for a consideration. The rulemaking would affect the manner of apportionment of business income derived from furnishing transportation services. Among other options, the Department may consider a rule requiring the exclusion from the Section 304(d) apportionment fraction of miles associated with transportation services where such services neither commence nor terminate in Illinois. For example, such a rule would exclude from the Section 304(d) apportionment fraction "fly-over miles," which are miles accrued during flights that neither depart from nor land in Illinois, but merely fly over the State en route.

Northwest Airlines v. Department of Revenue, 295 Ill. App. 3d 889, 692 N.E.2d 1264 (1st. Dist. 1998), held that Illinois fly-over miles may not be considered revenue miles of the person in Illinois under IITA section 304(d). Prior to this case, the Department required that such miles be included in the numerator of the taxpayer's apportionment formula. Similarly, in *Erieview Cartage, Inc. v. Department of Revenue*, 278 Ill. App. 3d 1123, 699 N.E.2d 602 (1st. Dist. 1996), the court determined that income attributable to shipments that neither originate nor terminate in Illinois may not be considered derived from furnishing transportation services in Illinois.

In addition, the Department may consider rules relating to the application

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of IITA section 304(d) to taxpayers engaged in package delivery services. The IITA requires taxpayers to apportion business income derived from furnishing such services applying the section 304(d) revenue miles formula.

The rulemaking on this subject will appear in a future edition of the *Illinois Register*. The public hearing will be for the sole purpose of gathering public comment.

6) Name and Address of Agency Contact Person: Questions regarding the public hearing or the proposed amendments may be directed to:

Brian L. Stocker, Staff Attorney
Legal Services Office
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794
(217) 782-7055
bstocker@revenue.state.il.us

Persons interested in presenting testimony are advised that the Department will adhere to the following procedures in the conduct of the hearing:

A) Each person presenting oral testimony shall provide to the hearing officer a written (preferably typed) copy of such testimony at the time the oral testimony is presented. No oral testimony will be accepted without a written copy of the testimony being provided.

B) Each person presenting oral testimony will be limited to fifteen minutes for presentation of such testimony.

C) No person will be recognized to speak for a second time until all persons wishing to testify have done so.

D) All testimony shall conclude at the specified time except that an individual presenting testimony at that time shall be allowed to complete the presentation.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF RECODIFICATION WITH NO SUBSTANTIVE CHANGES

1) Heading of the Part: Plumbers Licensing Code

2) Code Citation: 68 Ill. Adm. Code 750

3) Date of Index Department Review: 12/2/99

4) Current Headings and Numbers of the Rules Being Recodified:

Section Numbers	Headings
750.1000	Applicability
750.1010	Statutory Authority
750.2000	Election of Officers
750.2010	Duties of Chairman
750.2020	Duties of Vice-Chairman
750.2030	Quorum
750.2040	Meetings
750.3000	Requirements for Admission to Plumbing License Exam
750.3010	Administration of Plumbing License Examination
750.3020	Examination Results
750.3030	Evaluation of Course of Instruction
750.3040	Course Credit
750.3050	Plumbing License Revocation
750.3055	Plumbers' and Apprentice Plumbers' License Records
750.3060	Administrative Hearings
750.3070	Training Requirements Pertaining to Plumbing Firms
750.4000	Plumbers' and Apprentice Plumbers' Examination and Licensure Fees
750.4010	Other Fees

5) Outline of Headings of Sections of the Rules as Recodified:

Section Numbers	Headings
750.100	Applicability
750.115	Statutory Authority
755.120	Administrative Hearings
750.205	Election of Officers
750.215	Duties of Chairman
750.225	Duties of Vice-Chairman
750.235	Quorum
750.245	Meetings
750.300	Requirements for Admission to Plumbing License Exam
750.310	Administration of Plumbing License Examination
750.320	Examination Results
750.330	Course Credit
750.430	Plumbers' and Apprentice Plumbers' License Records
750.540	Evaluation of Course of Instruction

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF RECODIFICATION WITH NO SUBSTANTIVE CHANGES

750.600	Training Requirements Pertaining to Plumbing Firms
750.900	Plumbing License Revocation
750.1100	Plumbers' and Apprentice Plumbers' Examination and Licensure Fees
750.1110	Other Fees

6) Conversion Table of Present and Recodified Rules:

Present Part	Recodified Part
750.1000	750.100
750.1010	750.115
750.2000	750.205
750.2010	750.215
750.2020	750.225
750.2030	750.235
750.2040	750.245
750.3000	750.300
750.3010	750.310
750.3020	750.320
750.3030	750.540
750.3040	750.330
750.3050	750.900
750.3055	750.430
750.3060	750.120
750.3070	750.600
750.4000	750.1100
750.4010	750.1110

JOINT COMMITTEE ON ADMINSTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of November 30, 1999, through December 6, 1999 and have been scheduled for review by the Committee at its December 14, 1999 or January 12, 2000 meeting in Springfield. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

Second Notice Expires	Agency and Rule	Start Of First Notice	JCAR Meeting
1/13/00	Property Tax Appeal Board, Practice and Procedure for Hearings Before the Property Tax Appeal Board (86 Ill Adm Code 1910)	10/15/99 23 Ill Reg 12547	12/14/99
1/13/00	Department of Human Services, Program Description (89 Ill Adm Code 676)	10/8/99 23 Ill Reg 12058	12/14/99
1/13/00	State Board of Education, School Construction Program (23 Ill Adm Code 151)	9/10/99 23 Ill Reg 10916	12/14/99
1/14/00	Department of Transportation, Repeal of Port District Development Program (44 Ill Adm Code 740)	10/15/99 23 Ill Reg 12589	12/14/99
1/14/00	Department of Transportation, Repeal of Water Resources Contracts and Purchases (44 Ill Adm Code 695)	10/15/99 23 Ill Reg 12600	12/14/99
1/14/00	Department of Professional Regulation, Interior Design Profession Title Act (68 Ill Adm Code 1255)	10/8/99 23 Ill Reg 12295	12/14/99
1/14/00	Liquor Control Commission, The Illinois Liquor Control Commission (11 Ill Adm Code 100)	10/15/99 23 Ill Reg 12518	1/12/00
1/14/00	Liquor Control Commission, Beverage Alcohol Sellers and Servers Education and Training (BASSET) Programs (77 Ill Adm Code 3500)	10/15/99 23 Ill Reg 12514	1/12/00

JOINT COMMITTEE ON ADMINSTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

1/14/00	Department of Natural Resources, Repeal of Illinois Salmon Stamp Contest Procedures (17 Ill Adm Code 2550)	10/15/99 23 Ill Reg 12530	1/12/00
1/14/00	Department of Public Aid, Hospital Services (89 Ill Adm Code 148)	7/30/99 23 Ill Reg 8586	1/12/00
1/19/00	Department of Central Management Services, Standard Procurement (44 Ill Adm Code 1)	9/24/99 23 Ill Reg 11762	1/12/00

Rules acted upon during the calender quarter from Issue 43 through Issue 52 are listed in the Issues Index by Title number, Part number and Issue number. For example, 50 Ill Adm. Code 2500 published in Issue 1 will be listed as 50-2500-1. The letter "R" designates a rule that is being repealed. Inquiries about the Issues Index may be directed to the Administrative Code Division at 217-782-4414 or jnatale@ccgate.sos.state.il.us (Internet address).

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